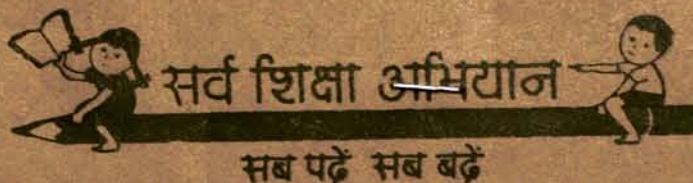


SECRET



वैज्ञानिक जागरूकता वर्ष
Year of Scientific Awareness



फाइल सं०
File No. 120/4/8/2005-NCB-II

खण्ड
Volume

NOTES

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

अनुभाग

Section

टिप्पणियां/पत्राचार

NOTES/CORRESPONDENCE

को सूचीकृत की गई

Indexed on

आद्याक्षर

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Record C Destroyed in

नोट किया जाए

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To be noted

In Sectional Note Book

Not to be noted

अनु० अ०/अधीक्षक के हस्ताक्षर

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SUBJECT

Submission of the report
of the Commission to
MHA - Action regarding.

Note - 13 pages

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(प्रादीप गुप्ता)
(PRADEEP GUPTA)
संयुक्त सचिव / Joint Secretary
गृह मंत्रालय
Ministry of Home Affairs
भारत सरकार / Govt. of India

Keep
18/12/05



①

File No. 12014/8/2005-NCB.II

Sub: Submission of the report of the JMCI – Regarding.

Justice Mukherjee Commission of Inquiry was set up on 14th May, 1999 to inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith including -

- a) whether Netaji Subhas Chandra Bose is dead or alive;
- b) if he is dead, whether he died in the plane crash, as alleged;
- c) whether the ashes in the Japanese temple are ashes of Netaji;
- d) whether he has died in any other manner at any other place and, if so, when and how;
- e) if he is alive, in respect of his whereabouts.

2. The Commission has submitted its report to the Home Minister on 8th November, 2005. As per Section 3(4) of the Commissions of Inquiry Act, 1952, the report is to be laid before the House of the People together with a memorandum of the action taken thereon within a period of six months of the submission of the report of the Commission.

3. The report is being studied in detail and a detailed note will be submitted at the earliest. In the meantime, a summary of the Commission's findings with reference to (a) to (e) of para 1 are given below -

- a) Netaji Subhas Chandra Bose is dead;
- b) He did not die in the plane crash, as alleged;
- c) The ashes in the Japanese temple are not of Netaji;
- d) In absence of any clinching evidence a positive answer cannot be given; and
- e) Answer already given in (a) above.

4. This may kindly be seen for present information.

S.K. Goswami
(S.K. Goswami)
Under Secretary

OSD(S)

Roll
14.11.2005

HS
16/11/2005

HS
14/11

HS
14/11/2005

P 22/15/JS(S)/05
3132/Secy/Bm/05
21.11.05
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F. 4446/Hs/05
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Justice Mukherjee Commission of Inquiry was set up on 14th May, 1999 to inquire into all the facts and circumstances related to the disappearance of Netaji Subhash Chandra Bose in 1945 and subsequent developments connected therewith including –

- a) whether Netaji Subhas Chandra Bose is dead or alive;
- b) if he is dead, whether he died in the plane crash, as alleged;
- c) whether the ashes in the Japanese temple are ashes of Netaji;
- d) whether he has died in any other manner at any other place and, if so, when and how;
- e) if he is alive, in respect of his whereabouts.

2. The Commission has submitted its report on 8th November, 2005. The report consists of three volumes – Volume I, Volume IIA and Volume IIB. The contents of each Volume is given below –

- Volume I : It contains the report running into 123 pages divided into five chapters. It also contains Annexures from pages 124 to 303. There are also Appendix I (list of 131 witnesses examined) and Appendix II (list of 308 exhibits).
- Volume IIA : It contains status report upto 31-12-2002 running into 195 pages.
- Volume IIB : It also contains status report from 1-1-2003 to 15-10-2005 running into 134 pages (from pages 196 to 329).

3. A chapter-wise brief has been attempted and is placed at F/X. While preparing the brief, care has been taken to ensure that important and relevant points are not left out. As certain portions have been quoted from the reports of the earlier Committee and Commission, a copy each of those reports is placed below.

4. On a study of the report, it is seen that for arriving at the conclusions, the Commission has relied on the following points –

- i) Netaji is dead because average Indian's life span is 70 – 75 years and Netaji would have been more than 108 years old now (his date of birth being 23-1-1897).
- ii) While coming to the conclusion about the death of Netaji, the Commission depended on 'probability' and not 'possibility'.

iii) For concluding that Netaji did not die in the plane crash and that the story was a camouflage to help netaji escape, the following reasons have been given -

- (a) absence of documents like medical certificate, cremation certificate and non-availability of photograph;
- (b) Japanese army authorities wanted to pass off the death and cremation of one Ichiro Okura as those of Netaji;
- (c) A few days after the alleged air crash on August 18, 1945 the Japanese army authorities persuaded Dr. Tsuruta to issue a death certificate in the name of somebody else;
- (d) The normal procedure of inspection of dead body by the Taipei Crematorium people, was not followed on the orders of Japanese army;
- (e) Habibur Rahman was also a party to the escape plan;
- (f) Habibur Rahman decided to have the photograph taken of the dead body without the face to avoid discovery of the identity of the deceased;
- (g) As Habibur Rahman accompanied Netaji from Saigon and was found present in Taipei cooking up a story of Netaji's death, Netaji disappeared therefrom;
- (h) Whether Netaji landed in Russia thereafter cannot be answered for dearth of evidence;
- (i) Buddhist custom of cremation was followed as Ichiro Okura was a Buddhist and that his body was cremated and the mortal remains taken to Tokyo and preserved in Renkoji Temple; and
- (j) Inability of the Commission to subject the mortal remains to DNA test has not stood in the way of conclusive finding based on robust circumstantial evidence.

5. It is stated in this connection that Shah Nawaz Committee and Khosla Commission came to the conclusion that Netaji died in the plane crash at Taihoku on August 18, 1945 and for that they stated the following -

Shah Nawaz Committee: "..... As for the witnesses who have deposed before us, neither from their antecedents, nor from the manner in which they made their statements, has the Commission any reason to disbelieve their stories. These witnesses are of different nationalities. They were unconnected with each other and came from different walks of life. There is absolutely no reason why they should come and depose to

something which they know to be untrue. Most of the Japanese witnesses are not now connected with the Government of Japan, and are in no way obliged to give evidence according to any particular brief. They all point to the fact that Netaji Subhas Chandra Bose died at Taihoku Military Hospital on the night of the 18th August, 1945. We accept this conclusion." (Pages 34-35).

Khosla Commission: "After giving the most anxious consideration to all the available evidence, the criticism to which the statements of the various witnesses were subjected and the arguments advanced by counsel, I have reached the conclusion that the story of the air crash at Taihoku airfield in Taiwan and the subsequent death of Bose, resulting from brain injuries sustained by him in the crash must be believed. This story is substantiated by the testimony of wholly independent witnesses I am not prepared to accept the contention that the entire military organization of Japan had entered into a conspiracy to put forward a false story in order to cover up Bose's escape." (Page 49).

Khosla Commission has also stated the following regarding non-availability of records of the plane crash -

"It is only conjecture that such papers must have been prepared ergo, their non-production disproves the crash story. It is against reason, common sense and the rules of evidence to base a conclusion on such an unjustifiable and unsubstantiated assumption." (Page 39).

6. It is germane to point out here that this Commission's conclusion that the death of Okara Ichiro was passed off as the death of Netaji, does also not appear to be based on firm foundation. If the death of this man is passed off as that of Netaji, then that man must have existed. But the Commission has not delved into this man's background like who was he, whether he was really an obedient officer of the Taiwan Military Government Army, what about his family members, do they admit that he actually died because of heart failure and if so, how was he cremated and what happened to his ashes. If the commission investigated into these points and then came to this conclusion, there would have been no problem to accept this. On the contrary, if there is no existence of this man Okara Ichiro, then the death story of Netaji in the plane crash has to be believed on the ground that the Japanese wanted to hide the fact of Netaji's death and used the fictitious name and particulars of Okara Ichiro.

7. It is pertinent to point out in this connection that Khosla Commission also was aware of this death certificate in the name of Okara Ichiro and stated that -

"Therefore, it is erroneous to argue that because these two documents did not mention Bose's name and the date of his birth correctly they disprove Bose's death and the subsequent cremation of his dead body. The argument is in the nature of non-sequitur, for what does not relate to an event, cannot be used to disprove it. It is tantamount to raising a phantom and then destroying it. I do not, therefore, accept the contention that these documents relate to Bose and that they disprove the factum of his death."

8. It has been mentioned in the report that the Chairman had perused the microfilmed daily newspapers in the Institute of Taiwanese History, but there was no report of any plane crash on August 18, 1945. To prove the fact that Netaji was well known in Taipei, a news item from the "Central Daily News" of 14th September, 1945 has been reproduced, where the news of release from detention of members of Bose's family was published.

9. On this it is stated that as per the report, the Japanese were in control of Taiwan till 25th October, 1945 (Page 91). And if the Japanese army wanted the local newspapers not to publish the tidings of the plane crash to keep it secret, it is felt that there is no wonder that the plane crash news did not find a place in the newspapers of 18th August, 1945. So, the Commission's conclusion that no plane crash took place in Taihoku on that day on the basis of the above evidence, may be far fetched and is difficult to accept.

10. Similarly, the Commission's conclusion that "Absence of any entry relating to their cremation defeats the story of the death of Netaji and some of his co-passengers in the plane crash" (Page 74), may not be justified. Here the Commission procured from the Government of Taiwan records of cremation for the period from 17th August to 27th August, 1945 and got them translated into English and it was found that neither the name of Netaji, nor those of his co-passengers was there. Suffice it to say that if the Japanese wanted to keep the news about Netaji's death a secret, they would certainly not keep any evidence of others also in the register.

11. The doubt of the Commission about the plane crash is also fortified from the evidence of Habibur Rahman regarding the height of plane from where it nose-dived (possibly over 12-14000 feet) and has stated that "if this evidence of Habibur Rahman is to be believed then none of the 12/13 passengers – not to speak of the crew members – could have survived." (Page 89). It is pointed out here that the height from where the plane nose-dived has been mentioned in the Shah Nazar Committee and Khosla Commission reports and it varies between 20 to 50 meters (Pages 19 of Shah Nazar Committee report and Page 23 -24 of Khosla Commission report). Thus, it

is not known as to how this figure of 12-14000 feet has been mentioned in this report. Moreover, as the witnesses have stated, the plane crashed immediately after take off and in such a short time the plane could not, perhaps, have gained that height as at that time planes were not of high standard from the technological point of view. That apart, if the plane had really gained that height, then it could perhaps not fall within the precinct of the airfield.

12. The Commission has also expressed doubt about the story that Netaji received third degree burn injury as petrol from the tank by which he was sitting in the plane drenched him completely, on the ground that when the plane was nose-diving from that height i.e. 12-14000 feet, he could not have remained seated at that place. It may not be inept in this connection to quote from the report of Shah Nawaz Commission -

“Col. Habibur Rahman has given a detailed description of the seating arrangements, which is reproduced below, and has illustrated by sketch: The number of occupants in the plane including the crew was 12 or 13.Immediately behind the Pilot was sitting Netaji and nobody opposite to him, as the space was restricted by the petrol tanks. The Commission has examined four of Col. Habibur Rahman's fellow-passengers, namely Regarding seating arrangements, the versions of the different witnesses tally to a great extent.” (Page 15).

It will, thus, be seen that as the plane was small and space scanty, during the nose-diving there might not have been a major change in the seating position and hence, the story regarding Netaji's being drenched by petrol may not be ruled out. In any case, the Commission's finding on this point may not be based on very strong ground.

13. To prove that the story of Netaji's death in the plane crash is false, the Commission has cited another instance (Pages 74-75). Here one Toshikazu Shimoda had sent a letter to Dr. (Mrs.) Purabi Roy (one of the deponents before the Commission) enclosing a copy of death certificate of Chandra Bose (as the Japanese called him) which he (Toshikazu) received from Dr. Yoshimi on August 18, 1988. Dr. Yoshimi has admitted before this Commission that that was a photo copy. When asked under what circumstances he had given it to Toshikazu, Dr. Yoshimi replied that he did not remember. Copies of the letter and the certificate have been enclosed with the report at pages 298-299. The Commission has concluded that this “document cannot but be a manufactured one”.

14. Here again no details has been given for coming to the conclusion. The copy enclosed is an English version. The original one must have been in Japanese. But it has not been indicated whether the Commission examined the original one (from which it was photocopied), whether that was a typed one or hand-written (computer was perhaps not in existence in 1945), whether in 1988 when Dr. Yoshimi gave the copy to Mr. Toshikazu, photo copy was made from carbon copy or original one, quality of paper of the original one (obviously quality of paper will be different in 1945). There was ample scope to inquire about this certificate, but nothing has been mentioned. If it was found that the copy (from which photo copy was given to Mr. Toshikazu) did not stand the above tests, Commission's conclusion could be justified. It is mentioned here that Dr. Yoshimi had appeared before the earlier Committee and Commission and his evidence was found to be consistent.

15. It may so happen that in view of Netaji's stature and statesmanship, Dr. Yoshimi had retained a copy of the death certificate as a memento and from that he gave a photo copy to Mr. Toshikazu. While deposing before the Shah Nawaz Commission and describing the scene in the hospital after death of Netaji, as mentioned in the report, "... describing this poignant scene before the committee, Dr. Yoshimi himself broke down and sobbed audibly." (Page 39). It seems to be not possible for such a person to 'manufacture' a death certificate just to put the Commission on a wrong track.

16. From the above it is apparent that the Commission has not given sufficient reasons/grounds for coming to the conclusions that Netaji is dead and did not die in the said plane crash. No doubt people living beyond 100 years ^{are} very few, but it is not rare. Unless there is solid reason/ground/evidence, such a conclusion can be termed as conjecture/imaginary and that cannot stand logic. Further, regarding Netaji's disappearance point, the Commission has mentioned that it may be Taipei as Habibur Rahman and Netaji were last found together there (Page 107). But they were together in Tourane also and passed one night there. What if Netaji had disappeared from there and Habibur Rahman in connivance with the Japanese Government started cooking up the story of plane crash and death of Netaji at Taihoku giving Netaji lot of time to disappear. In the absence of adequate justification backed by cogent reason, such conclusions make the report fragile and frail.

17. It is, perhaps, not out of place to put a question here: If Netaji had not died in the plane crash, then where has he disappeared? He just could not vanish in the thin air. It was well-nigh impossible for someone like Netaji to remain hidden in some corner of Asia or elsewhere running away from his cherished dream of freeing India from the alien rulers. Under no stretch of imagination can it be said that he was coward and seeing that the Japanese

were surrendering and the Russians were aligning with the Allied Forces, he would give up the fight for independence leaving his comrades in the lurch and live a secluded indolent life in some corner of this planet. This simply does not fit in with the fiery and indomitable character of Netaji.

18. In view of the foregoing, it is felt that the report submitted by JMCI has many weaknesses and, although its report differs with those of the earlier Committee and Commission, it has not come out with adequate and solid reasons, justifications and grounds for coming to the conclusions. On studying the report it seems, as mentioned above, the conclusions are hasty and bristled with flaws. As it goes against the other two reports, acceptance of the report may lead to a lot of hue and cry by those who still want to bank on and exploit this issue. Also, the report is not going to solve the mystery about Netaji. On the contrary, it makes the issue more mysterious.

19. It is also germane to mention here that as per Section 3 (4) of the Commissions of Inquiry Act, 1952, the report is to be laid before the House of the People together with a Memorandum of the action taken thereon within a period of six months of the submission of the report of the Commission. The Commission has submitted the report on 8th November, 2005 and hence the period of six months runs upto 7th May, 2006. The Commission has not recommended any action in this report. But if it is decided not to accept the report, then a Memorandum of Action on the report in that line will be prepared.

20. It is also for consideration whether a note for the Cabinet may be prepared on the above lines enclosing a gist of the report and the findings as at F/X.

21. Submitted.

S. K. Goswami
16/1/06
(S.K. Goswami)
Under Secretary

OSD(S)

Recd to-day.
Photocopies of the JMCI reports should be submitted along with this file for processing. The original reports should be kept in the custody of US(G).
S. K. Goswami
18/1/06

Pl. peruse the note on the margin.
As discussed, appropriate action as per the note on the margin will be taken.

JS(S)

I agree with remarks of OSD(S) at 'A' above.
Phase resubmit file, thereupon

~~OSD(S)~~
~~US(G)~~

Bhamathi
16/1/06
S. K. Goswami
18/1/06

Reference direction on pre-page.
Needful has been done and the file is
re-submitted please.

JS (S)

Singh
21/1/06

us (g)
Pl. bring
3/1

1. The details about the report of the Justice
(JMCI)
Mukherjee Commission of Inquiry on the alleged disappearance
of Netaji Subhas Chandra Bose, set up by Govt. of India
(M.H.A.), vide notification dt 14.5.99, are well-documented
in the above notes (P.2-8/n) of the US (G). JMCI was set up
under the Commissions of Inquiry Act, 1952.

→ P.4/Report of
JMCI/Vol. I

2. The conclusions after detailed analysis of the
report of J.M.C.I. are contained in paras 16 to 18/n of the
above note.

As pointed out, though the findings of this
report of JMCI differs from those of the earlier
(a) 3-member Inquiry Committee, constituted by Govt. of India
vide notification dt 5 April, 1956, with Shri Shah Nawaz Khan
as its Chairman & Shri Suresh Chandra Bose (elder brother
of Netaji) & Shri S.N. Maitra, ICS, Chief Commissioner, A & N Islands,

→ P.1/Report of
JMCI/Vol. I

& (b) Inquiry Commission, constituted under the provisions of the
Commission of Inquiry Act, 1952, vide Govt of India, notification
dt 11 July 1970, headed by Shri G. D. Khosla, Retired Chief Justice of
Punjab High Court, conclusions drawn in the report of
JMCI are not backed by strong grounds. Hence, acceptance
of this report of JMCI may not be justified.

→ P.2/Report of
JMCI/Vol. I

3. As far as procedural aspects as per requirement of the
Commissions of Inquiry Act, 1952, are concerned, action is being taken
as per contents of para 19 & 20/n of the above note.

4. For further necessary action.

JS (S)

Singh
O.S.D. (Secy)
02/02/06

76-155(1)/06
2/2/06

Kindly refer notes from p-1/ ante

I. Administrative matters

A. The matter regarding printing of the report has been discussed with Technical Officer, Government of India Press, Directorate of Printing Ministry of Urban Development. The infrastructure to do the job in their Ring Road Press is available and would take 20 days to a month to complete the work.

As an alternative, we have also consulted the photocopying section MHA, and have been informed that this work could be done in that Section in a maximum of a week's time. They have a Toshiba heavy-duty photocopier. They would also make arrangement for binders in North Block with machines etc.

Table Office of Lok Sabha has indicated that there is no stipulation that the reports be printed and that only legibility is the issue.

From a perusal of the report for legibility, I find that the main report is a computer print out and therefore, quite clear. Some of the annexures, which are photocopies in themselves, do not seem to pose any major problem.

It is also pertinent to mention that the Commission had prepared two hard copies, one of which has been submitted to the Ministry. The second copy is with the Chairman. The Commission had also indicated that no CD/soft copy is available and this had been done to minimize chance of any leakage. The letter of the Commission may be seen at **Flag C**.

In the light of the above facts, it would be more appropriate to photocopy the report and the annexures in-house under the supervision of the Security Division.

B. All the documents dispatched by the JMCI office, Kolkata have been kept in Loknayak Bhawan in a room meant for two Under Secretaries. Hence no further space is available in this premise. Hence, if it is decided to do the photocopying job in house, **then safe space in North Block needs to be identified to store the copies of the reports before they are tabled.**

C. 14 pages(Volume I p 225-238 of report), containing report of the Chief Priest of the Rinkoji Temple, Tokyo regarding preservation of the ashes in an Urn are in Japanese. An unofficial

-1/-

translation of these pages has been provided by MEA to the Commission. **In this connection, a communication has been addressed to JS (CNV), MEA to get the pages translated into English, following which this will be further translated into Hindi (Flag D)**

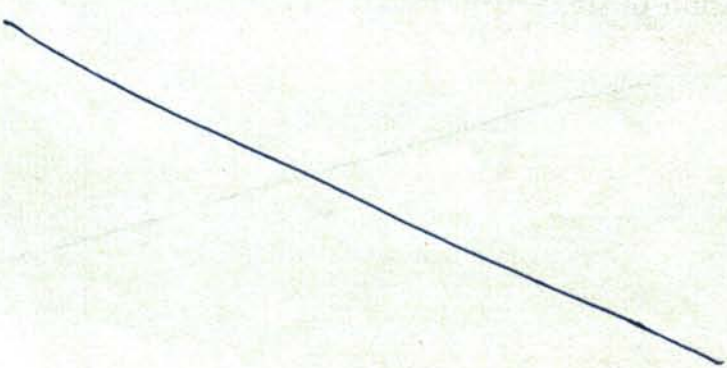
D. The Justice Mukerjee Commission (unlike the earlier the Committee/Commission) has opted to submit in addition to the main report Volume II A and II B, called Status Report by the Commission, which contain documentation of the day-to-day work done by the Commission. DS Table Office, Lok Sabha has indicated that it is up to the HM to decide as to what should be placed before the Parliament

E. As per the Practice and Procedures of Parliament (by M.N. Kaul and S.L. Shakder) with reference to reports to be laid under Commission of Inquiry Act the following stipulations are mentioned (Flag A1, A2, A3, A4)

- The reports should be laid together with the Memorandum of action taken thereon within a period of six months of submission of the report by the Commission to the Government (Section 3 (4) of the Commission of Inquiry Act, 1952)
- The document so tabled is duly authenticated by the Minister in a prescribed form (we are obtaining this)
- MHA is to forward to the Secretariat twenty one copies each of Hindi and English versions of the report, including one copy each of Hindi and English version duly authenticated by the Minister
- After the report is laid on the Table by the Minister, a few copies thereof are placed in the Library for reference of the members

As regards last two above, the DS, Table Office, Lok Sabha has also been consulted. He has requested for 25 copies each in Hindi and English of the report are to be given to Lok Sabha Secretariat for laying before the Parliament. Other copies, if felt necessary by the Ministry to be given to all the MPs, may be given the Publication Section of the Secretariat for distribution.

E. Tentative time frame for tabling the Report in the Parliament may also be seen at **Flag B.**



II. Substantive matters

- A. The Commission has submitted the report on 8th November, 2005 and hence the period of six months runs upto 7th May, 2006.
- B. A comparative statement of the findings of the Shah Nawaz Committee, Khosla Commission and JMCI may kindly be seen at Flag Y)
- C. Important observations on the JMCI findings may kindly be seen at Flag Y
- D. The Commission has not recommended any action in this report. But if it is decided not to accept the report, then a Memorandum of Action on the report in that line will be prepared.

Notes from p-2 ante may pl. be seen. B. Bhamathi

The reports seem to indicate subjective appraisal of evidence which makes conclusion difficult JS(S).

~~AS (BN)~~ Before venturing into a critique on the relative merit of the conclusions made by different Commissions of Enquiry, it would be appropriate if the relevant portions were reproduced/summarised in the tabular comparison placed below. It would also help if the copies (in extenso) are also placed on file to enable another subjective appraisal!

2. While photocopying may be a more secure alternative (A-p/10 ante), photo-offset may be an equally feasible alternative if done by the Govt Press (as for the FM's budget speech), especially because the number of copies required would exceed 50 (x2 = 100).

3. The procedural requirements of the Parliament may be cross-checked with their published rules of procedure / JS C. P. G. time frame may be ascertained? Home Secretary

My understanding is 14/2/06

With the current session is upto 23rd Apr (may be checked up) — so the time frame at F/B may not be correct. Let us keep it by 10th April for tabling. Also a brief self-contained note for H.M. is for see.

436/06/AS(BM)
10/2
436
10/2
06-AS (BM)
SENT IN 10/2
SENT OUT 8/3/06

✓ Flag Y

P633/HS/06
19/2

283/JS/CS/1/06
17/2/06

JS(S)

16/2/06

AS (BN)

Reference notes on page 12 ante.

As directed, the following have been prepared and are placed at Flags X, Y and Z respectively -

- i) Chapter-wise Gist of the JMCI report.
- ii) Comparison of the reports of Shah Nawaz Committee, Khosla Commission and JMCI on similar points.
- iii) Points taken by JMCI and not mentioned in the Shah Nawaz Committee report and Khosla Commission report.

S.K. Goswami
27/2/06
(S.K. Goswami)
Under Secretary

OSD(S) (on leave)

JS(S)

As directed by HS, a copy of above documents having already been handed over Bhama Kh on Saturday 25/2/06. 27/2/06

~~As (BSM)~~ File will be resubmitted with suggestion after meeting with HM on 8/3/06. *Devi...*

Home Secretary

may kindly see - HM has called a discussion today at noon on this.

for

9/3/2006

This was discussed with HM. n/a accordingly. *9/3*

JS(S) *9/3/06* *AF (BSM)*

HS



8/3/06



JMCI

फाइल सं.

File No. 12014/8/05 - NCB.II

खण्ड CORRESPONDENCE

Volume



2004
वैज्ञानिक जागरूकता वर्ष
Year of Scientific Awareness

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

अनुभाग

Section

टिप्पणीयां/पत्राचार

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नोट किया जाए
नोट न किया जाए अनुभागीया नोट बुक

To be noted In Sectional Note Book
Not to be noted

अनु. अ./अधीक्षक के हस्ताक्षर
Initials of S.O./Supdt.

लिपिक के हस्ताक्षर
Initials of Clerk

विषय

SUBJECT

Submission of the report of
the Commission to MHA -
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JUSTICE MUKHERJEE COMMISSION OF INQUIRY
FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
'B' Block, (Third Floor)
11/A Mirza Ghalib Street, Kolkata 700 087

Phone:
Chairman - 252-2835
Secretary - 252-2767
Officer on
Special Duty - 252-2765
Office - 252-2766/68
e-mail: jmcinsecb@cal.3.vsnl.net.in

Fax :
0091-033-252-2765

2648/JS(6)/05
BY SPEED POST 09/11

No. JMCI /Admn/99-2000/32(III)/163.

Kolkata, dated, 31.10.2005

Shri Roy is handing over the Report to HM on behalf of the Chairman today at 4 pm. AS(CS) may see join. 08/11

From : Shri M. Roy, IAS (Retd.),
Secretary

To : Shri M. Muralidharan,
Private Secretary to the Home Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi-110001.

FAX No. 011-2309-3003

Sub : Submission of the report of
the Commission

S i r,

I am directed to state that as the Hon'ble Chairman is physically unwell he has desired the Secretary to make over the sealed report of the Commission to the Home Secretary on November 8, 2005 in the afternoon. The Secretary will be reaching New Delhi by train in the ~~after~~ forenoon of November 8, 2005 and will be leaving New Delhi for Kolkata on November 9, 2005 in the afternoon.

Hence, the said sealed report may be made over in the forenoon of November 9, 2005 if no appointment can be given on November 8, 2005 in the afternoon for the aforesaid purpose.

Kindly get an appointment for the aforesaid purpose and inform the same by return Fax. This has reference to my discussion with you on phone on 31.10.2005 at about 3.00 p.m.

Yours faithfully,

(M. Roy)
Secretary

31.10.05

* I have an appearance before the Panel. The report received has been forwarded to Security Div.

JS(S)
172-250(5)/05
10/11/05
BS(S)
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coord

6421/05 SSC/11
9/11
CONFIDENTIAL

JUSTICE MUKHERJEE COMMISSION OF INQUIRY

FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF

NETAJI SUBHAS CHANDRA BOSE.

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2655 / JSCS / 05
10/11

e-mail : jmcinscb@cal.3.vsnl.net.in

No. JMCI/Admn/99-2000/32(III)/169

November 07, 2005

From
The Chairman,
Justice Mukherjee Commission of Inquiry

To
The Hon'ble Minister,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi-110001.



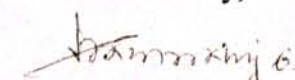
Sir,

I am sending herewith through Shri M. Roy, Secretary of the Commission, the first and final report (together with periodical Status Reports in two volumes) of the Commission prepared, signed and sealed by me as its Chairman for submitting the same to the Ministry on November 8, 2005 at 4.00 p.m. as per the programme communicated to the Commission on phone by the Deputy Secretary (S), Ministry of Home Affairs, Government of India, on November 2, 2005.

I regret that I am not in a position to go to New Delhi now for the aforesaid purpose as I am physically unwell.

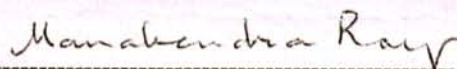
Kindly arrange to acknowledge the receipt of the above reports.

Yours faithfully,

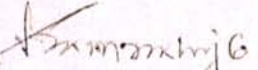

(M. K. Mukherjee)
Chairman


Specimen signature of the Secretary
of the Commission is attested below :


As(ccs)

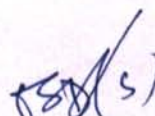

Manabendra Ray

Attested.


(M. K. Mukherjee)
Chairman


10.11.2005.


10/11


US/

179-005(5)/05
10/11/05

CONFIDENTIAL

JUSTICE MUKHERJEE COMMISSION OF INQUIRY

FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF

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Fax :

0091-033-252-2765

e-mail : jmcinscb@cal.3.vsnl.net.in

No. JMCI/Admn/99-2000/32(III)/169

November 07, 2005

From

The Chairman,

Justice Mukherjee Commission of Inquiry

To

The Hon'ble Minister,

Ministry of Home Affairs,

Government of India,

North Block,

New Delhi-110001.


Sir,

I am sending herewith through Shri M. Roy, Secretary of the Commission, the first and final report (together with periodical Status Reports in two volumes) of the Commission prepared, signed and sealed by me as its Chairman for submitting the same to the Ministry on November 8, 2005 at 4.00 p.m. as per the programme communicated to the Commission on phone by the Deputy Secretary (S), Ministry of Home Affairs, Government of India, on November 2, 2005.

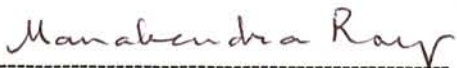
I regret that I am not in a position to go to New Delhi now for the aforesaid purpose as I am physically unwell.

Kindly arrange to acknowledge the receipt of the above reports.


Yours faithfully,


(M. K. Mukherjee)
Chairman

Specimen signature of the Secretary
of the Commission is attested below :



Attested.


(M. K. Mukherjee)
Chairman

Ministry Of Home Affairs

Received from Shri M. Roy, Secretary to Justice Mukherjee Commission of Inquiry, the Report of the Commission on the alleged disappearance of Netaji Subhash Chandra Bose, as specified below :-

Volume - I

1. Main Report comprising pages 1 to 123.
2. Annexures :
A, A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, A-12, A-13; B, B-1, B-2, B-3, B-4, B-5, B-6, B-7, B-8, B-9, B-10, B-11, B-12, B-13, B-14, B-15; C, C-1, C-2; D, D-1, D-2, D-3, D-4, D-5, D-6, D-7, D-8, D-9, D-10, D-11, D-12, D-13, D-14 and D-15, Pages 124 to 303.

Appendix - I - List of 131 witnesses examined - Pages 1 to 11.

Appendix - II - List of Exhibits (1 to 308) - Pages 1 to 19.

Volume - II A

Status reports in Sl. No. 1 to 55 from inception of the Commission upto 31.01.2000 and from 01.02.2000 to 31.12.2002 (Pages 1 to 195).

Volume - II-B

Status reports in Sl. No. 56 to 84 for the period 01.01.2003 to 15.10.2005 (Pages 196 to 329).

(Yashwant Raj)

Joint Secretary (Admn.)

November 8, 2005

Witnesses :

1. Shri J.B. Sinha, Director (Estt), Ministry of Home Affairs
2. Shri Labh Singh Chane, DS(A&V), Ministry of Home Affairs

The Report of the Commission in three Volumes was brought in sealed covers and handed over to MHA. These covers were opened in my presence and the contents of the Volumes are as per description above.

Received 3 volumes (Vol. I, Vol. II A & Vol. II B) along with forwarding letter from DS (SI).

Sugoswami
8/11/05
(S.K. GOZWAMI)
LiS (Arms)

Manabendra Roy
(M. Roy) 08.11.05
Secretary
Justice Mukherjee Commission of Inquiry
November 8, 2005

D.O. No. 12014/9/2005-NCB.II

TOP SECRET

B. Bhamathi,
Joint Secretary (Security)

Dated: February 8, 2006.

Dear

Kindly refer to the telephonic discussion I had with you on 7-2-2006 regarding translation into English of 14 pages in Japanese from the report of the Justice Mukherjee Commission of Inquiry.

2. The MEA had provided a gist of this portion to the Commission vide D.O. letter No. 25/4/NGO-Vol.XIV dated 25-4-2005 following a note of the Chief Priest of Renkoji Temple to Shri Srinivas, First Secretary of the Embassy of India dated 25-3-2005. Copies of the letter dated 25-4-2005 and the note dated 25-3-2005 are also enclosed with the report.

3. We intend to table the report in the forthcoming Budget Session of the Parliament for which we require English translation of those pages. I shall be grateful if you kindly get the pages translated into English and send the same to us by the 20th instant before Cabinet approval is taken. The relevant pages numbering 14 are enclosed.

Yours sincerely,

B. Bhamathi
(B. Bhamathi)

Shri L.D. Ralte,
Joint Secretary (CNV),
Ministry of External Affairs,
South Block,
New Delhi.

ole

S. No. 1 (CR)
JUSTICE MUKHERJEE COMMISSION OF INQUIRY

FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF

NETAJI SUBHAS CHANDRA BOSE.

'B' Block, (Third Floor)

11/A Mirza Ghalib Street, Kolkata-700087

Phone:

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Secretary - 2522-2767
Officer on
Special Duty - 2522-2765
Office - 2522-2766/68

FAX : 033 252-2765

BY SPEED POST

e-mail :
jmcinscb@cal3.vsnl.net.in

No. JMCI/ ADMN./99-2000/32(III)/157

October 18, 2005

From : M. Roy, IAS (Retd.)
Secretary

To
Shri Rakesh,
Joint Secretary (Security),
Ministry of Home Affairs, Govt. of India,
North Block,
New Delhi-110001

Sub : Winding up of the Commission

Sir,

In continuation of the Commission's letter No. JMCI/Admn/99-2000/32(III)/153 dated 17.10.2005 I am to state that as desired in the letter No. I/12014/2/2005-NCB-II dated 05.04.2005 of the Deputy Secretary, Ministry of Home Affairs, Government of India (which was in reply to the Commission's letter No. JMCI/Admn/99-2000/32(III)/448 dated 16.03.2005), inventories of all items of dead stock are sent herewith to the Ministry; that inventories of all the books / documents / files / records of the Commission are being prepared for sending the same to the Ministry soon after submission of the report of the Commission to the Ministry; that necessary action on the said letter dated 05.04.2005 of the Ministry was stalled for a couple of months in view of the Notification No. S.O. 671(E) dated 14.05.2005 of the Ministry of Home Affairs, Government of India, extending the term of the Commission up to 14.11.2005; and that the action for stitching / binding / indexing of the documents / files / records of the Commission is in progress which would be conveniently completed after submission of the report of the Commission.

I am to request you to kindly convey necessary orders / approval of the Ministry of Home Affairs, Government of India, in respect of the plan of action for winding up the office of the Commission soon after submission of its inquiry report as detailed in Commission's letter No. JMCI/Admn/99-2000/32(III)/448 dated 16.03.2005.

I am to request you further to kindly send necessary clarification / confirmation of the Ministry on the following points :-

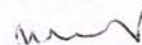
- (a) The Commission's report, with its enclosures, is being prepared in duplicate - the original copy thereof will be submitted to the Ministry within the prescribed time limit and the other copy will be retained by the Hon'ble Chairman and CD copy may be prepared to minimize the chance of any leakage;

30/10/05
Rall
21.10.2005
SD(S)
D.O. (Nehru
club)

- (b) The office of the Commission with full strength of Officers and staff will be in existence up to 14.11.2005, even if the report of the Commission is submitted before 14.11.2005;
- (c) Notwithstanding the provision in Rule 7 of the Commissions of Inquiry (Central) Rules, 1972, "the papers relating to the Secretariat (of the Commission), its establishment matters and all other matters handled by or in the Commission including the evidence tendered before the Commission" which are being preserved by the Commission, shall be remitted, not with the report of the Commission, but after submission of its report on getting necessary orders / approval of the Ministry of Home Affairs, Government of India, as solicited in Commission's aforesaid letter dated March 16, 2005;
- (d) The office with suitably reduced strength of officers and staff, is required to be maintained till inspection of the accounts of the Commission for the period beyond April, 2003 is done and disposal / transfer of all items of dead stock, books and journals, files / documents / records including affidavits filed by the deponents, the depositions of the witnesses recorded by or on behalf of the Commission and the exhibits made by the Commission are disposed of / transferred / despatched according to the instructions solicited from the Ministry in Commission's aforesaid letter dated March 16, 2005;
- (e) In view of the provision in Rule 7 of the Commissions of Inquiry (Central) Rules, 1972, the Hon'ble Chairman perhaps is required to continue to exercise his role of superintendence and control over the residual office after 14.11.2005 till the works referred to in the sub-para (d) are completed in full;
- (f) The strength of officers and staff out of the existing strength as shown in Order No. I-12014/2/99-NCB.II dated 15.06.2005 of the Ministry of Home Affairs, Government of India (copy enclosed), who may be permitted to be retained after 14.11.2005, may kindly be indicated so that the suitable officers and staff out of the existing ones could be retained beyond 14.11.2005 to run the residual office for completion of the residual jobs as stated hereinbefore.

Encl : As stated above.

Yours faithfully,



(M. Roy)
Secretary

D.O. No. 12014/9/2005-NCB.II

SECRET

S.C. Bardhan,
Officer on Special Duty (Security)

Dated: February 7, 2006.

Dear

This is regarding the tabling the report of Justice Mukherjee Commission of Inquiry before the both Houses of Parliament. It has been decided to photocopy the report consisting of three parts in about 700 pages. The Hindi version of the report (which is under preparation) will also be photocopied for tabling.

2. We propose to get these volumes photocopied (about 900 copies each in English and Hindi will be required) in the Photocopying Section of MHA under the supervision of the Section Officer (Shri Ramesh Chand) of the concerned Section in this Division to maintain the secrecy.

3. I would, therefore, request you to kindly make the following arrangements –

- i) To issue instructions to the Section Officer (Photocopying) in R&I Section of MHA to make the required number of photocopies under supervision of Shri Ramesh Chand, SO.
- ii) To issue instruction to Ad.III Section to make arrangements for spiral binding of the reports in R&I Section itself.
- iii) To arrange for space for keeping the reports under lock and key till the tabling is done in the Parliament.

We are thinking of tabling the report by the end of this month and hence this requires to be done by 24th of this month positively. The report in three volumes (I, IIA and IIB) are enclosed.

Yours sincerely,

(S.C. Bardhan)

Shri Yashwant Raj,
Joint Secretary (Admn),
MHA, North Block,
New Delhi.

and proclamations issued by the President and orders incidental thereto⁷; and Reports of the various authorities constituted under the Constitution and other papers connected therewith.

In the last category are the reports of the Comptroller and Auditor-General regarding the accounts of the Government of India (commonly known as the Audit Reports)⁸, the recommendations of the Finance Commission together with an explanatory memorandum as to the action taken thereon⁹, the reports of the Special Officer (generally known as the commissioner) for Scheduled Castes and Scheduled Tribes¹⁰. The reports of the Backward Classes Commission¹¹ together with a memorandum explaining the action taken thereon; the reports of the Special Officer for the Linguistic Minorities (generally known as the Commissioner for Linguistic Minorities)¹² and the reports of the Union Public Service Commission¹³, together with a memorandum about the cases, if any, where the advice of the commission was not accepted by the Government and the reasons for such non-acceptance. In regard to the Union Public Service Commission, the regulations framed by the President defining the scope of the Commission's functions are also laid on the Table¹⁴.

Except the reports of the Finance Commission and the Backward Classes Commission, which are laid on the Table as and when submitted to the President, all the above reports are laid annually.

Papers Laid under the Statutes

Papers required to be laid on the Table under various statutes may be broadly classified under the following categories:

(i) Rules, sub-rules, regulations, bye-laws framed by Executive authorities in exercise of the delegated powers of Legislation.—Every statute containing rule-making provisions provides for the laying of such rules as soon as these are framed, for a certain period and such rules are subject to modification by the House¹⁵.

(ii) Annual reports and audited accounts of public undertakings whether incorporated under the Companies Act, 1956 or created under specific Acts.

(iii) Reports etc., of statutory bodies, other than public undertakings, constituted under specific laws of Parliament. The provision regarding laying of papers of these bodies is, however, not uniformly laid down in the

7 Art. 123(2)(a), 352(4), 356(3), 359(3) and 360(2)(b)—For details, see Chapter XXIII—Ordinances and Proclamations by the President.

8 Art. 151(1).

9 Art. 281.

10 Art. 338(2).

11 Art. 340(3).

12 Art. 350 B(2).

13 Art. 323(1).

14 Art. 320(5), *L.S. Deb.*, 11-9-1958, c. 5957.

15 For details, see Chapter XXIV—Subordinate Legislation, and Chapter XXX—Parliamentary Committees, under 'Committee on Subordinate Legislation'.

statutes. In many of them, the requirement is either confined merely to the laying of accounts or the annual reports or their *ad hoc* reports.

In addition, various Union statutes also provide for the laying of Government Resolutions, Statutory or Executive Orders, or any other paper issued or prepared thereunder.

No statutory report can be treated as privileged document, and must, therefore, be laid on the Table¹⁶.

Where a state has come under President's rule under article 356, the Appropriation Accounts and the Audit Report thereon have also to be laid on the Table. However, it is not necessary for the Government to re-lay these documents before Parliament to enable the Public Accounts Committee at the Union to examine them, if they were laid before the State Assembly before it ceased to exist.

Reports required to be laid under the statutes should be laid as per requirement of the statute. Similarly, reports under the Commissions of Inquiry Act should be laid together with the Memorandum of action taken thereon within a period of six months of submission of the report by the Commission to the Government.

Papers Laid under the Rules of Procedure

Papers required to be presented to the House or to be laid on the Table¹⁷ under various provisions contained in the Rules include:

Reports of Select or Joint Committees on Bills¹⁸; Reports of the Standing Parliamentary Committees¹⁹; Petitions²⁰; Statements regarding Ordinances²¹; Rules, regulations etc., as modified in accordance with the amendment adopted

16 It was ruled that Report of Commissioner for SCST regarding disturbances at Ramanathapuram was a statutory report under Article 338 of the Constitution and must be laid on the Table of the House. Such a report was not covered by first proviso to rule 368 and could not be claimed as a privileged document.—*L.S. Deb.*, 18-12-1957.

17 In the Constitution as well as in the Rules, both the expressions, namely, 'presentation' and 'laying' have been used and connote the same meaning, though their use in respect of each particular document or paper has got special significance by virtue of usage. Whether a particular document is presented to the House or is laid on the Table, the net effect is the same, i.e. the House takes cognizance of such a paper, and the same consequences would follow.

A paper or document is, however, not to be treated as a paper laid as such if it does not fulfil the primary condition of authentication by the member or Minister laying it on the Table. For instance, the replies given to starred questions not reached for oral answer in the House and to unstarred questions are not treated as papers laid, though these are deemed to be laid on the Table under the Rules. Similar is the case with regard to Bills received from the other House in their various stages and laid on the Table.

18 For details, see Chapter XXX—Parliamentary Committees.

19 *Ibid.*

Except for the report of the Rules Committee, which is laid on the Table, reports of all the Standing Parliamentary Committees are presented to the House.

20 Rule 167; see also Chapter XXXIII—Petitions and Representations.

21 Rule 71; see also Chapter XXIII—Ordinances and Proclamations.

by both the Houses²²; Bills as passed by the Rajya Sabha²³, including Bills returned by Rajya Sabha with amendments²⁴; Bills returned by the President for reconsideration²⁵; and replies to unstarred questions or starred questions not reached for oral answer²⁶.

Papers Laid under Directions of the Speaker

In pursuance of the directions issued by the Speaker, the following documents or papers are required to be laid on the Table :

Statements by Ministers in reply to half-an-hour discussion: When half-an-hour discussion is interrupted for want of quorum or when there is no time for the Minister to give a full reply to the debate, the Speaker directs the Minister to lay a statement on the Table²⁷.

Opinions on Bills : Opinions on a Government Bill are laid on the Table by the Minister concerned and on a private member's Bill by the member in-charge of the Bill soon after the opinion's are received²⁸. In the case of a private member's Bill, if the member in-charge is absent, opinions thereon are laid by the Minister concerned with the Bill. Opinions received when Lok Sabha is not in session are laid on the Table as soon as the House reassembles.

Bills assented to by the President: Every Bill passed by Parliament and assented to by the President is required to be laid on the Table by the Secretary-General. In the case of a Bill on which assent is obtained by the Rajya Sabha Secretariat, the Bill as assented to by the President is authenticated by the Secretary-General of Rajya Sabha before being laid on the Table²⁹.

Statements in response to calling attention notices : If two calling attention notices have been put down in the List of Business of the same sitting, the statement in respect of the first notice is made in the House and the statement in response to the second notice may be laid on the Table by the Minister concerned³⁰. In practice, however, whenever a statement to be made by a Minister in response to a calling attention notice is long, a synopsis of the statement may be read out by the Minister and the full statement laid on the Table.

22 Rule 239; see also Chapter XXIV—Subordinate Legislation.

23 Rule 114.

24 Rules 98, 139 and 149.

25 Rules 129(2) and 144.

26 Rule 39.

27 Dir. 19; *L.S. Deb.*, 1-3-1960, c. 3598; 16-3-1960, c. 6198.

28 Dir. 24(1).

29 Dir. 35.

The Secretary-General reports to the House on the second day of the session and thereafter on the last day of every week on which the House sits, all Bills assented to by the President since a report was last made to the House, and also lays on the Table the assented copies of the relevant Bills. For this purpose, there is an informal arrangement between the two Secretariats for the mutual supply of authenticated copies of Bills assented to by the President.

30 Dir. 47A; see also *L.S. Deb.*, 13-9-1957, cc. 13753-58; 27-9-1958, cc. 8882-85.

Minutes of Standing Parliamentary Committees : After the minutes of a sitting or sittings of a Committee are approved by the Chairman of the Committee, an authenticated copy thereof is laid on the Table³¹.

Documents connected with the report of a Select or Joint Committee: Along with the report of a Select or Joint Committee on a Bill, the minutes of the various sittings, Government amendments, if any, to the Bill and other important papers made available to the members of the Committee and approved by its Chairman for presentation to the House, are also presented to the House. Evidence given before a Select or Joint Committee is not presented to the House with the report. If the Committee decides to lay it before the House, it is laid on the Table separately, usually on the same day after the report has been presented³².

Parliamentary Committees may make recommendations in their reports requiring certain reports or explanatory memoranda to be placed before the House. In response to such recommendations certain papers are laid on the Table of the House.

Papers Quoted to be Laid on the Table

If a Minister quotes in the House a despatch or other State paper which has not been presented to the House, he is required on demand to lay the relevant paper on the Table³³; even when a document is partly quoted by him, the entire document has to be laid on the Table³⁴. The rule does not apply to a document which is stated by the Minister to be of such a nature that its disclosure would be inconsistent with public interest³⁵. As to what constitutes public interest is a matter entirely for the Government to decide³⁶. The privilege of refusal to lay on the Table a document on the ground of public interest should be claimed specifically by the Minister himself who quotes the document³⁷.

Refusal by a Minister to place a confidential document on the Table is not a breach of privilege³⁸. The Speaker cannot compel a Minister to lay a document if its disclosure is claimed to be against public interest³⁹. No breach of collective responsibility of the Council of Ministers is involved if a Minister declines to disclose contents of a document claiming privilege and a part of the contents thereof is later divulged by the Prime Minister⁴⁰.

31 Dir. 67(1)—See also Chapter XXX—Parliamentary Committees.

32 Dir. 92.

33 Rule 368.

34 *L.A. Deb.*, Vol. IV, 1938, pp. 484-89.

35 Rule 368, First Proviso; see also *L.S. Deb.*, 3-4-1963, cc. 7572-74.

36 *L.A. Deb.*, 3-4-1937, p. 2631; There have been instances where Speaker agreed to enquire from Ministers reasons why laying of documents on the Table was against public interest.—*L.S. Deb.*, 26-2-1970, c. 246; 2-3-1970, c. 234.

37 *L.S. Deb.*, 3-4-1963, c. 7583.

38 *L.S. Deb.*, 7-8-1959, cc. 1196-1227.

39 *Ibid.*, 19-11-1957, cc. 1313-15.—On demand by members, the Speaker may, if he thinks fit, ask the Minister concerned to show him in his Chamber the document in question so that he might look into the public interest aspect of it.—See for instance, *L.S. Deb.*, 26-2-1970, c. 246; 2-3-1970, c. 234.

40 *L.S. Deb.*, 2-3-1964, cc. 3328-29.

If a Minister declines to lay a document on the Table on the ground that it is against public interest, it is Government's responsibility to see that contents thereof do not leak out.

Where a Minister gives in his own words a summary or gist of such despatch or State paper and does not actually quote from it, it is not necessary for him to lay the relevant paper on the Table⁴¹. Similarly if a document is referred to casually, it need not be so laid. But if it is pressed that the document should come on the record of the House, the Minister lays the document on the Table⁴². There has been a case where on the Minister's assertion that he had given a gist of the document being challenged, the Speaker asked the Minister to show him the document confidentially to enable him to decide whether the gist of the document had been given and later informed the House that Minister has given the gist⁴³. Sometimes documents even though read in full have been laid on the Table⁴⁴.

If a Minister during his speech is reading from a statement the veracity of which is challenged and it is not possible for him to continue his speech due to continuous interruptions, the Speaker may ask him to lay the rest of the statement on the Table. The Speaker is not to judge as to what the Minister is saying is correct or not. By placing the statement before the House it is not proved that what is said therein is correct or that the statement is in reply to what has been said in the House. After the statement is laid, it is subject to examination in the normal course⁴⁵.

Correspondence between Ministers

It follows from the principle of collective responsibility of the Council of Ministers to the Lok Sabha⁴⁶, that all communications between Ministers are regarded secret or confidential unless the Government itself decides to make any particular communication or part thereof public. The Government's right to decide what is secret or confidential and what should be laid on the Table of the House is absolute. Even if a Minister quotes in the House from a document, he may refuse to lay it on the Table of the House on ground that its disclosure would not be in public interest. What constitutes 'public interest' would again be entirely for the Government to determine.

Even if a private member quotes from or places on the Table of the House copy of a document certified by him as a true copy of the original, still it may not be necessary for the Government either to place the original on the Table or to admit

41 Rule 368, Second Proviso; see also *L.S. Deb.*, 16-3-1965, cc. 4547-59, 4-4-1984, cc. 516-26.

42 *L.S. Deb.*, 19-12-1956, c. 2755; 17-4-1963, cc. 10288-89; 18-4-1963, cc. 10423-24; 20-4-1963, c. 10921.

43 *Ibid.*, 23-8-1973, c. 192; 5-9-1973, cc. 49-53.

44 *Ibid.*, 19-12-1956, c. 2756; 27-11-1958, c. 12232.

45 *Ibid.*, 15-2-1966, cc. 382-92.

46 See Chapter VIII—Parliamentary Functionaries, under the heading 'Council of Ministers' and Chapter XXVIII—Motion of No-Confidence in the Council of Ministers, under the heading 'Cabinet Responsibility', *supra*.

or deny the correctness of the alleged copy. While the Lok Sabha can force a Government to quit by passing a vote of no-confidence in the Council of Ministers, neither the Speaker nor the House can compel a Minister to lay on the Table of the House any communications between Ministers which the Government regards as secret or confidential and the disclosure of which it considers against public interest⁴⁷.

The July-August, 1978 Session of the Rajya Sabha was dominated by a demand raised in various ways for laying on the Table of the House some correspondence alleged to have taken place between the Prime Minister and the then Home Minister regarding an inquiry into allegations of corruption against the family of the Prime Minister and the family of the then Home Minister.

On 19 July, 1978, speaking in the Rajya Sabha on a Calling Attention Notice on the subject, the Prime Minister *inter alia* observed that it was a well recognized principle that communications between Ministers were privileged documents. It was necessary for a free and frank exchange of views between the Ministers and had been recognized in May's Parliamentary Practice also. The Prime Minister added that he proposed to adhere to this inviolable principle in the transaction of Government business.

Following continued demands for laying the correspondence on the Table and noisy exchanges leading to early adjournment of the House on a few days, the Chairman after discussing the matter with the Prime Minister announced that he had advised the Government and the Government had accepted that it would be better if it placed the correspondence in the Chairman's Chamber for perusal by the Leader of the Opposition and Leaders of the other Parties and Groups in the House. The modality and procedure for the perusal of the said correspondence were to be the same as adopted in the matter of the *Import Licenses case* in December, 1974⁴⁸.

Later in the Lok Sabha the same correspondence between the Prime Minister and Home Minister was made public by the former Home Minister in the statement on his resignation from the Government⁴⁹.

When private communications or despatches or memoranda are referred to, the rule for the laying of cited documents does not apply.

If a member quotes from a paper or document, whether public or private, he may be asked to lay it on the Table⁵⁰. Before laying it on the Table, the member has to submit that paper or document to the Speaker for perusal and it is treated as paper laid on the Table only after Speaker has accorded the necessary permission⁵¹. But the member is not allowed to lay on the Table private correspondence of another member.

Unless a member has quoted from a document in the House, he is ordinarily not permitted to lay it on the Table⁵². A member is not required to lay on the Table

47 *R.S. Deb.*, 19-7-1978.

48 *Ibid.*, 27-7-1978. Also see J. P. I. Vol. XXIV, pp. 611-18.

49 *L.S. Deb.*, 12-12-1973, cc. 269-304.

50 *Ibid.*, 26-3-1958, cc. 6882-84; 4-9-1958, cc. 4699-4703; 1,2-4-1959, cc. 9033 and 9265, respectively.

51 *Dirs.* 117 and 118.

52 *L.S. Deb.*, 11-4-1963; cc. 13937-38.

a document if the House is satisfied with oral statement of the member⁵³. Where a member has only referred to a document and not actually quoted any portion therefrom, he is not required to lay it on the Table⁵⁴.

Members' Right to Quote from Secret Documents

A member can ordinarily quote from a document that is treated by Government as secret or confidential, and which the Government have not disclosed in public interest. There is a possibility for such a document to be obtained through leakage or stealth or in an irregular manner, and there is no compulsion on the member to disclose the source from which a copy thereof has been obtained by him⁵⁵.

Normally, a member is not expected to spring a surprise on the Speaker, the House and the Government by quoting from a document which is not public. In fairness to all and in accordance with the parliamentary conventions, he is expected to inform the Speaker and the Government in advance so that they are in a position to deal with the matter on the floor of the House when it is raised. If this requirement is not complied with, the Speaker may stop the member from quoting such a document and ask him to make available to the Chair a copy before he can be allowed to proceed with any quotation therefrom.

While the Government cannot be compelled to admit or deny the correctness of any alleged copy of a document which is classified as secret or confidential, it is necessary for the member who quotes from such a document to certify that he has verified from his personal knowledge that the document is a true copy of the original which is authentic and he will do so on his own responsibility. The member is also required to give a certificate on the document in the prescribed form⁵⁶. The Speaker accordingly would permit him to proceed. In case the member is not prepared to give a certificate in these terms and insists on quoting from such a document, the Speaker may stop the member from quoting from such a document.

There is an over-riding authority with the Speaker to stop a member from quoting from a document in national interest where security of the country is involved. He can exercise this power without assigning any reason⁵⁷.

When a member reads a part of confidential document, that portion and any other relevant portion to make it understood is laid on the Table; the entire document need not be laid⁵⁸. However, if a confidential document has not been laid on the Table by the Government as its disclosure would be inconsistent with public interest and a private member seeks to lay it on the Table on the ground that the document has already leaked out, it is permitted to be laid on the Table only when the member verifies from his personal knowledge that the document sought to be laid by him is

53 *Ibid.*, 1-8-1956, cc. 1779-81.

54 *Ibid.*, 14-9-1964, c. 479.

55 On 24 July, 1974, the Chair observed that members were not bound to reveal the source of information.—*L.S. Deb.*, 8-8-1974, c. 10.

56 *Dir.* 118 A.

57 *L.S. Deb.*, 26-2-1965, cc. 1713-21; 24-4-1968, c. 241.

58 *H.P. Deb.*, Vol. V, 1954, cc. 6621-23.

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a true copy of the original which is authentic and also records a certificate thereon to that effect⁵⁹.

When a member quotes from a secret document and seeks to lay it on the Table, he is required to submit the document or a copy of it, to the Speaker after recording a certificate thereon⁶⁰. The document is, thereafter, sent to the Government for verification of its authenticity. After considering the facts supplied by the Government, the Chair decides whether the document should be allowed to be laid on the Table or not and his decision is final.

On 10 December, 1987, while speaking⁶¹ on the Motion of No Confidence in the Council of Ministers, a member sought to lay on the Table a report of the Technical Evaluation and Negotiation Committee on the 155 MM Guns headed by Gen. Mayadas. As the member had quoted certain portions from the report, there was a demand that the report be laid on the Table. The member thereupon, stated that he would lay the report. The report was later handed over by the member after giving the following certificate thereon:

"I certify from my personal knowledge that this document is a true copy of the original which is authentic".

As per established procedure, a copy of the Report handed over by the member was sent to the Ministry of Defence for comments, particularly about its authenticity to enable the Speaker to decide whether it could be treated as a paper laid on the Table. After considering all aspects of the matter, including the Ministry's reply as well as the fact that the matter was under examination by a parliamentary committee, Speaker decided not to allow the document to be laid or deemed to have been laid on the Table.

A document with the Government does not *ipso facto* become public if a document purporting to be a copy thereof is laid on the Table by a member. The Speaker cannot compel the Government to lay the document in their possession on the Table, much less to disclose it or to communicate it to anyone else, if the Government still classify it as confidential⁶².

If in answer to a question or during debate, a Minister discloses the advice or opinion given to him by any officer of the Government or by any other person or authority, the relevant document or part or parts of the document containing that opinion or advice or a summary thereof is ordinarily laid on the Table⁶³. It is,

59 L.S. Deb., 26-2-1965, cc. 1713-21; 3-4-1963, cc. 7518-24; 22-2-1965, cc. 808-42.

60 Dir. 118A.

61 L.S. Deb., 10-12-1987, cc. 523-524.

62 Ibid., 12-6-1967, cc. 4366-73.

63 Rule 370; L.S. Deb., 31-5-1956, c. 4516; 21-12-1960, cc. 6659-65; 22-12-1960, c. 7066; 23-3-1966, cc. 7170-80.

Rule 370 was incorporated in 1953. The Rules Committee were of the view that it was the Minister who was responsible to the House and not the Officers whose advice he might have taken. If, therefore, a Minister relies on any advice, he must first make it his own and then express it in

however, always open to a Minister to claim privilege that it would not be in the public interest to lay the document containing that advice or opinion on the Table, even though its source has been disclosed⁶⁴.

Where a document containing such advice or opinion, for which privilege was claimed in the House by the Minister, leaked out subsequently, the Minister concerned had to lay a copy thereof on the Table, as a copy of the document was produced by a member on the floor of the House and the Minister concerned on verification found that it was a true copy of the original⁶⁵.

Speaker's Permission for Laying Papers

Approval of the Speaker is necessary before any paper can be laid on the Table. Such permission is presumed in the case of State documents and papers, if they are laid on the Table in pursuance of statutory obligations, rules, practice and conventions of the House. The Speaker's specific permission is, however, necessary when a Minister wants to lay a paper on the Table at a short notice⁶⁶.

Competence to Lay Papers on the Table

Normally it is the Ministers who lay documents on the Table. Most of the documents are required to be laid under statutory or constitutional provisions or in pursuance of the rules of procedure and the directions of the Speaker. In respect of other documents, the Ministers have to use their judgment whether to place a paper on the Table or not, and if so, when. Where it is decided by a Minister that a matter is such that the House should be taken into confidence, he should, as a matter of courtesy first place the document before the House and then release it to the Press⁶⁷.

It is for the Government to decide whether a report of a departmental committee, or any particular report, should be laid on the Table. The Speaker has declined to give any directions to the Government whenever request by members suggesting the laying of such a report has been made to him⁶⁸.

the House as his own view or if he discloses the source of advice, he should be prepared to place the document before the House.

The idea behind it was that the House would come to an independent decision whether the advice which had been given to the Minister was sound and in the best public interest, and if the House thought that the advice was not correct, it might have a directive to the Minister. In the other case in which the Minister expressed an opinion of his own, whether arrived at by himself or after seeking the advice of any of his advisers, officers, etc., the House could censure him if it severely disagreed with that opinion of the Minister—*Min. (RC)*, 22-12-1953.

64 *H.P. Deb.*, (I), 13-8-1953, cc. 575-76; *L.S. Deb.*, 21-2-1960, cc. 6661-62.

65 *L.S. Deb.*, 4-5-1963, cc. 13908-44; 6-5-1963, cc. 13993-94.

66 See also this Chapter, under sub-heading 'Procedure for Laying Papers on the Table', *infra*.

67 *L.S. Deb.*, 8-4-1960, cc. 10378-80.

68 *Ibid.*, 18-4-1959, cc. 7060-63; 20-3-1959, cc. 7535-47; 16-8-1963, c. 634; 21-8-1961, cc. 3482-85; 8-12-1961, c. 4182.

The responsibility for laying on the Table correspondence between the Union and State Governments, or circulating it to members, rests with the Government, and the Speaker does not undertake to determine for the Government, the course of action they ought to take. Normally, such correspondence is not laid on the Table⁶⁹.

Reports of inquiries conducted by State Governments are not laid on the Table of the House⁷⁰.

When a team of members of Parliament visit a place on invitation of the Government and submit a report, it is not an official document to be laid on the Table because Ministers are required to lay only official documents⁷¹.

There is nothing in the Constitution or the Rules of Procedure and Conduct of Business in the House or in the Evidence Act which prohibits the Government from laying a paper or document on the Table including a plaint, written statement, affidavit or petition submitted before a Court of Law. However, if a Minister declines to lay it on the ground that its production would be inconsistent with public interest, the Speaker cannot compel the Minister to lay it on the Table⁷².

A member can also lay a paper or document on the Table but only when he is authorized to do so by the Speaker⁷³.

Some papers viz., reports of parliamentary committees which could not be presented to the House because of its dissolution, assented copies of Bills, etc., are laid on the Table by the Secretary-General in pursuance of the directions of the Speaker. By practice the Secretary-General also lays on the Table annually, two brochures, namely 'Parliamentary Committees—A Summary of Work' and 'Financial Committees—A Review'.

When a new Lok Sabha meets after a general election, Secretary-General lays on the Table a book containing names of members returned to the House, which is presented to the Speaker by the Chief Election Commissioner.

Secretary-General also lays on the Table a copy of the President's Address to both Houses of Parliament assembled together under article 87 of the Constitution.

It has been held that in case a paper relating to administrative matters, not within the cognizance of the Speaker, is laid on the Table by a private member and is then referred to Government for comments, the paper along with the comments should be laid on the Table by the Minister concerned, and not by the Secretary-General⁷⁴.

69 *Ibid.*, 21-2-1966, c. 1217; see also *L.S. Deb.*, 5-8-1970, cc. 33-37.

70 *Ibid.*, 16-8-1961, cc. 2403-04.

71 *L.S. Deb.*, 23-3-1965, cc. 5267-77.

72 *Ibid.*, 9-5-1968, cc. 3149-56.

73 *Dir.* 117; see also *Dir.* 118 and *L.S. Deb.*, 15-5-1957, cc. 455-6; 8-3-1958, c. 3891.

74 On 4 September, 1958, a member laid certain papers on the Table in support of his adjournment motion on the situation in Kerala.—*L.S. Deb.*, 4-9-1958, cc. 4675-99.

Subsequently, the Speaker directed that the papers be forwarded to the State Government and their comments, if any, might also be laid on the Table with their concurrence. On an intimation being received from the Home Ministry that the State Government had no objection to their comments

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Authentication of Papers to be Laid

A paper or document which is laid on the Table is duly authenticated by the Minister or member concerned⁷⁵. When a paper is laid on the Table by the Secretary-General, it is authenticated by him⁷⁶. Thus, a person who authenticates a document is presumed to take full responsibility for its genuineness, correctness and authenticity. This is necessary because once a document is laid on the Table, it becomes a part of the permanent record of the House and hence a public document open to inspection and use by members⁷⁷.

There is a prescribed form for authentication of documents⁷⁸, and this form is followed by Ministers in accordance with the standing instructions issued to them by the Speaker.

In the case of a paper or document laid by a Minister, an entry is made in the List of Business. If before such an entry is made, a change in the office of the Minister takes place, another copy is required to be authenticated by the new Minister and the entry in the List of Business is made accordingly. Similarly, in the case of papers to be laid on the Table afresh after dissolution of Lok Sabha or in the case of papers to be relaid, if there is a change in the office of Minister, fresh authentication becomes necessary.

There is no right to a private member to lay a paper on the Table, unless he is permitted to do so by the Chair. Authentication is required only when he has been allowed to lay a paper.

Authenticated copies of all papers or documents to be laid on a particular day are kept at the Table before the commencement of the sitting and in the evening sent to the Parliament Library.

Procedure for Laying Papers on the Table

Papers Laid by Government

Papers are required to be laid on the Table by Ministers both in English and Hindi versions. Where a paper is permitted to be laid by the Speaker in one version only, the Minister has also to lay on the Table a statement giving reasons for not laying simultaneously the other version of the document.

being laid on the Table, it was decided that it would be more appropriate for the Minister of Home Affairs to lay them on the Table because if the Secretary-General did so, the responsibility would lie with the Speaker and that in administrative matters which were not within the cognizance of the Speaker, it was necessary that he should keep clear of governmental responsibility.

⁷⁵ Rule 369(1).

⁷⁶ There are, however, certain documents which though laid by Secretary-General are not authenticated by him. For example, the Address delivered by the President to both the Houses of Parliament is authenticated by the President. Similarly, Bills passed by Rajya Sabha and laid on the Table of Lok Sabha by Secretary-General are authenticated by Secretary-General, Rajya Sabha.

⁷⁷ Min. (RC), 17-4-1953.

⁷⁸ Each document is authenticated at a suitable place preferably on the front page.

When a Minister wants to lay on the Table any paper or document, the concerned Ministry forwards to the Secretariat twenty one copies each of Hindi and English versions of the paper complete in all respects, including one copy each of Hindi and English version duly authenticated by the Minister concerned, two clear days before the date on which the Minister proposes to lay it on the Table⁷⁹. In special circumstances, however, the Speaker may, on request, permit a Minister to lay a paper at a short notice⁸⁰. If the Minister in whose name an item stands on the agenda is not present, the papers can be laid on the Table by another Minister but with prior intimation to the Speaker⁸¹.

If the paper is being laid under any particular statute, the Ministry indicates the relevant provision in their communication to the Secretariat. In case the paper to be laid is an 'order'⁸², the period for which it is to be laid is also indicated as also the fact whether or not the 'order' is subject to modification.

Papers received from the Ministry are examined in the Secretariat to see whether they conform to the statutory requirements, if any, in regard to them⁸³. If it is found that there has been a delay in laying a paper, the Minister concerned is required also to lay on the Table a statement explaining reasons for the delay, along with such paper or document⁸⁴.

If the Minister has indicated a particular date on which he wishes to lay a paper on the Table, an entry is made in the List of Business for that date. In case no date is mentioned the entry is normally made in the List of Business for the next day allotted to the Minister for answering questions in the House. The entry is made in the name of the Minister who has authenticated the paper and he is to lay the papers unless he has authorised another Minister to do so on his behalf. However, if he is present in the House, another Minister, even if authorised, cannot lay the papers. Only the brief subject and not the purport of the paper is mentioned in the entry⁸⁵.

79 Dir. 116(2) *L.S. Deb.*, (II), 27-8-1954, c. 427.

80 Dir. 116(3).

81 *Ibid.* 25-7-1975, cc. 1-2.

82 'Order' here implies any regulation, rule, sub-rule, bye-law, etc., framed in pursuance of the provisions of the Constitution or the legislative functions delegated by Parliament to a subordinate authority, and required to be laid before Lok Sabha.—Rule 319.

83 For example, in the case of annual reports of public undertakings, the statutory requirement as laid down in the Companies Act, 1956, is that they must be accompanied with a copy of the audit report and any comments upon, or supplement to, the audit report, made by the Comptroller and Auditor-General; hence if any particular annual report is received from a Ministry without the audited accounts and the comments of the Comptroller and Auditor-General thereon, the fact is immediately brought to the notice of the concerned Ministry for compliance, before the item is included in the List of Business. Similarly, if a paper is lacking in respect of some other requisite information, the Ministry is asked to make the paper complete in all respects for inclusion of the item in the List of Business.

84 *L.S. Deb.*, 22-8-1962, cc. 3442-43.

In the case of 'orders' such a statement is not insisted upon and the delay as also the reasons therefor given by the Ministry, if any, are brought to the notice of the Committee on Subordinate Legislation who take cognizance of the matter.

85 *L.S. Deb.*, 24-5-1957, cc. 1881-82.

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Contents of a paper to be laid on the Table are kept confidential till the paper has been so laid. It is open to a Minister to correct or alter the text of any paper before it is laid. All such corrections made in the paper are, however, authenticated by the Minister, or alternatively, an authenticated copy of the paper as to be finally laid on the Table is supplied to the Secretariat before or as soon as the paper is so laid.

'Laying a paper on the Table' does not imply that the Minister is required to hand over the paper physically at the Table. What transpires is that the authenticated copy of the paper to be laid is kept at the Table. It may be made available for reference, if necessary, by the members on request after the Minister, when called upon by the Speaker, formally states that he lays it on the Table. Where the document to be laid is of far-reaching importance, its contents may, with the permission of the Speaker, be read out to the House⁸⁶.

No point of order about legality or constitutionality of a paper can be raised when it is being laid on the Table⁸⁷.

It is for the Committee on Papers Laid on the Table to examine and report to the House (i) whether there has been compliance of the provisions of the Constitution, Act, rule or regulation under which the paper has been laid; (ii) whether there has been any unreasonable delay in laying the paper; (iii) if there has been such delay, whether a statement explaining the reasons for delay has been laid on the Table of the House and whether those reasons are satisfactory; (iv) whether both the Hindi and English versions of the paper have been laid on the Table; and (v) whether a statement explaining the reasons for not laying the Hindi version has been given and whether such reasons are satisfactory.

Papers Laid by Members

A member can also lay a document or paper on the Table, but only with the previous permission of the Speaker⁸⁸. The member is, therefore, required to supply a copy thereof to the Speaker in advance so as to enable him to decide whether permission should be granted or not.

The occasion for a member to lay a paper normally arises when he quotes from a document and wishes to lay it on the Table either of his own accord or in pursuance of a demand made in the House or when a question of privilege is involved and the member is required to substantiate the allegations made by him with documentary evidence. In such cases, the member is required to hand over a copy of the paper, if he has not supplied it already, to the officer at the Table. The paper is, however, deemed to have been laid when the Speaker, after examination, accords the necessary permission⁸⁹.

86 *Ibid.*, 13-3-1958, cc. 4736-9.

87 *Ibid.*, 24-3-1975, cc. 228-32

88 Dir. 117

The Speaker has observed that he could not allow an official document to be laid on the Table by a Private member on behalf of the Government.—*L.S. Deb.*, 8-8-1974, c. 10.

89 Dir. 118(2) (i). When the Speaker accords permission to the paper being laid on the Table, the information is published in the Bulletin—*L.S. Deb.*, 7-7-1967, c. 10341. If the Speaker does not accord his permission, the paper is returned to the member and the fact is indicated in the printed debates in the form of a foot-note.

While according permission to treat a paper furnished by the member as laid on the Table, the Speaker takes *inter alia* the following factors into consideration: that the member has referred to the document in the House or read extracts therefrom and there is a demand for laying it⁹⁰, or that it was being laid under directions of the Chair⁹¹; that the document is important enough to be brought on record of the House⁹², contains nothing which is against the wider interest of the nation, or is not propagandist in nature and the House is not being made thereby a forum for expressing any views likely to lower the prestige or authority of the House; that the matter contained therein is in some way connected with the business of the House; the document has been published by a State Government or other competent authority⁹³, and that it is original and authentic⁹⁴.

When a member seeks permission to lay a paper or document on the Table of the House, he is required to record thereon a certificate⁹⁵ in one of the following forms, as the case may be :-

- (a) 'I certify from my personal knowledge that this is the original document which is authentic'.
- (b) 'I certify from my personal knowledge that this document is a true copy of the original which is authentic'.
- (c) 'I certify that the contents of this document are correct and based on authentic information'.

If the paper or document consists of more than one page, the member is required to put his signature with date on every page thereof.

A paper sought to be laid by a member may be referred under directions of the Speaker to a parliamentary committee/sub-committee, if the matter referred to therein is under examination of that committee/sub-committee⁹⁶.

Permission is not granted when the document is in the nature of private correspondence or when a member has cited it merely to reinforce his arguments to which the Minister has already given a reply⁹⁷, there is no demand by the House for the document being placed on the Table⁹⁸ or when the document does not corroborate the statement made by a member⁹⁹. Likewise, permission is withheld where a document is a statement of figures prepared by a member the use of which he could have made in his own speech¹⁰⁰ or contains a member's views and the member cannot

90 *L.S. Deb.*, 11-6-1952, cc. 1547, 1549; 12-6-1952, c. 1606; 22-2-1956, cc. 581, 582; 21-3-1956, c. 3203; 23-4-1956, c. 6104; 21-5-1956, cc. 8985-6; 15-11-1957, cc. 876-7; 13-11-1962, cc. 1241-3; 9-7-1980, c. 246; 2-12-1981, c. 344.

91 *Ibid.*, 27-11-1958, cc. 1679, 1683-84.

92 *Ibid.*, 19-12-1956, c. 3530; 20-2-1958, cc. 1750, 1753; 4-9-1958, cc. 4699, 4713.

93 *Ibid.*, 3-4-1959, c. 9639.

94 *Ibid.*, 3-4-1959, c. 9639; 1-4-1959, c. 9033; 2-4-1959, c. 9265; 6-4-1959, c. 10153.

95 *Dir.* 118 A.

96 *L.S. Deb.*, 1-12-1967, cc. 4259-60 and Bn. (II), 14-12-1967.

97 *Ibid.*, 19-11-1958, c. 559; 6-4-1959, cc. 10151-53; 20-8-1963, c. 1554.

98 *Ibid.*, 30-11-1967, c. 3919.

99 *Ibid.*, (II), 17-8-1956, c. 3624.

100 *Ibid.*, 18-11-1963, c. 185.

vouch for the authenticity of its contents¹⁰¹ or where a document is not in original but is merely a copy, the authenticity of which cannot be verified¹⁰² or where a document contains extracts from some documents which are not accessible and whose existence could not be verified, or conversely where a document is easily available for reference¹⁰³ or where a member seeks to lay a document independent of any relevant business before the House, or where a member has neither quoted from document sought to be laid nor has he been called upon to lay it nor is there any question of privilege involved so as to require him to substantiate the allegations made by him with the documentary evidence¹⁰⁴.

Circulation of Papers Laid

Immediately after a paper is laid on the Table by a Minister, a few copies thereof are placed in the Library for reference of the members and it is also released for general information to the press.

Normally papers required to be laid on the Table under a statutory obligation are not circulated in advance to members nor released to the press, unless the Speaker permits the advance circulation¹⁰⁵ or the statute under which the papers which are to be laid so provides¹⁰⁶. In the case of *ad hoc* reports and other papers which are not required to be laid on the Table under any particular statutory or other provision but are so laid by the Government *suo motu* the practice is that these are as a matter of courtesy first placed before the House, if it is in session and then released to the press¹⁰⁷. If the House is not in session, the paper is circulated in advance with the

101 *Ibid.*, 13-3-1959, cc. 6269-70; 27-11-1967, c. 3058.

102 *Ibid.*, 6-4-1959, cc. 10151-53.

103 *Ibid.*, 14-5-1957, c. 214.

104 *L.S. Deb.*, 19-8-1959, cc. 3115-16; 21-8-1959, c. 3607; 1-9-1961, c. 6538; 11-4-1963, cc. 9281-83.

105 On 11 March, 1959, the Speaker informed the House that he had agreed that Government Companies would despatch copies of their annual reports to the members direct soon after their annual general meetings were held. He further observed that 10 copies of the reports would be sent to the Library and the reports would formally be laid on the Table as soon as possible, as required under the Companies Act, 1956.—*L.S. Deb.*, 11-3-1959, c. 5581.

On 14 August, 1961, the Prime Minister laid on the Table a statement issued by the meeting of the Chief Ministers of States and Union Ministers held on 10, 11 and 12 August, 1961. The Statement had however, been issued to the Press earlier and published by newspapers on 13 August, 1961.

Explaining reasons for this advance release of statement to the Press, the Prime Minister stated in a letter, dated 12 August, 1961, to Speaker that it was difficult for him to delay the publication of that statement till 14 August, 1961, the date on which it was to be laid on the Table as considerable interest had been taken in the meeting of Chief Ministers of States and Union Ministers and there was possibility of a distorted version of what the meeting decided coming out in the press.

106 For example, the 'orders' unless required to be laid in draft form, are always laid on the Table after they are notified in the Gazette.

107 *L.S. Deb.*, 8-4-1960, cc. 10378-80; 9-5-1962, cc. 3431-32.

There have been instances when papers were circulated to members before being laid on the Table. For example:

(i) On the opening day of the 12th Session (3LS), the Prime Minister was to lay on the Table a statement on Indo-Pakistan Agreement of June, 1965, relating to Gujarat-West Pakistan border

permission of the Speaker and laid on the Table in the next session¹⁰⁸.

Copies of papers laid on the Table are circulated to members if the Minister so desires or if the Speaker so directs in response to a general demand in the House¹⁰⁹. In certain cases, standing instructions in this regard have been issued to all Ministries in pursuance of the Speaker's observations in the House¹¹⁰. Papers on which discussion takes place in the House like Budget documents, UPSC Reports, Reports of Commissioner for Scheduled Castes and Scheduled Tribes etc. are invariably circulated to members.

Normally, papers laid on the Table by a member are merely placed in the Library for reference of members. In special cases, however, copies are made out by the Secretariat and supplied to members on request¹¹¹.

Re-laying of Papers

Where the Constitution or a statute provides that 'orders' issued thereunder should be laid on the Table for 'not less than so many days' or for 'at least so many days' or for 'so many clear days' such period is required to be completed in one session and if it is not so completed, the 'order' is required to be re-laid in the succeeding session or sessions until the said period is completed in one session¹¹². In the computation of 'clear days', 'at least so many days' or 'not less than so many days' both the terminal days are excluded. In other cases, the rule is to exclude the first and include the last day. Where the 'orders' are laid on the Table in the two Houses on different dates, the period for which they are required to be laid commences from the later date.

and on the same day to move a motion for taking into consideration the said statement. Entries to that effect were made in revised List of Business for 16 August, 1965, issued on 12 August, 1965. As the statement was to be discussed the same day on which it was to be laid, copies thereof along with the text of the Agreement were circulated to members in advance on 15 August, 1965.

- (ii) On the opening day of 5th Session (5-LS), the Minister of External Affairs was to make a statement regarding Agreement on Bilateral Relations between India and Pakistan signed at Simla on 2 July, 1972 and also to lay a copy of the Agreement. On the same day a Government motion for taking into consideration that statement was to be taken up. Entries to that effect were made in revised List of Business for 31 July, 1972, issued on 29 July, 1972. Copies of the Agreement were circulated to members in advance on 28 July, 1972.

108 The Speaker agreed to the circulation of reports of the U.P.S.C. and the Vivian Bose Board of Enquiry (regarding conduct of certain officials concerned with investments of L.I.C. and Government's decisions thereon) to members during the inter-session period and to their being laid on the Table in the next session (August-September, 1959). Similarly, the report of the Tek Chand Committee on Prohibition though released in May, 1964, was laid on the Table on 2 June, 1964.

109 For example, the Mahalanobis Committee Report and Report of inquiry into events and circumstances leading to the arrangements entered into with Fairfax Group Inc. (Thakkar-Natrajan Commission) were circulated to members under direction of the Speaker.—*L.S. Deb.*, 29-4-1964, c. 13388; 9-12-1987.

110 *L.S. Deb.*, 21-8-1962, cc. 3204-7; 25-8-1962, c. 3978.

111 *Ibid.*, 4-9-1958, cc. 4699-4713.

112 Rule 234.

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Where the prescribed period for laying of certain 'orders' is neither completed in the session in which they are originally laid nor in the succeeding session when they are relaid, the 'orders' are required to be relaid again in the next session so as to complete the prescribed period in that session¹¹³. Where the 'orders' are not relaid on the Table in the succeeding session either because the concerned Ministry fails to send necessary intimation to the Secretariat for their inclusion in the List of Business or that the period prescribed in that behalf is not likely to be completed in that session, they are required to be so laid in the session immediately following.

Where a statute provides that the 'orders' framed thereunder should be laid on the Table for a certain period which may be comprised in one session or in two or more sessions the 'orders' after having been laid once in a session are deemed to have been laid in the succeeding sessions till the specified period is completed and thus it is not necessary for the 'orders' to be formally relaid on the Table in the next session in order to complete the prescribed period¹¹⁴. But if an 'order' is required to be laid for a 'total period' of thirty days to comprise in one session or in two successive sessions, the period so stipulated has to be completed in the session in which it is so laid and the session immediately following. If the period is not so completed, such 'order' is required to be relaid during the next session¹¹⁵.

Where the 'orders' are required to be re-laid on the Table these are not so re-laid in the last session of Lok Sabha preceding its dissolution if it is known that the prescribed period will not be completed during the session. It is sufficient if the 'orders' are laid afresh in the first session of the new Lok Sabha¹¹⁶.

Where the 'orders' are laid on the Table for an incomplete period during a session of Lok Sabha and thereafter the House is dissolved, they are required to be laid afresh (not re-laid) for the complete period during the first session of the new Lok Sabha¹¹⁷.

113 *P. Deb.*, 16-11-1950, cc. 98-99; *L.S. Deb.*, 19-3-1962, cc. 925-6; 24-3-1962, cc. 1545-6.

114 For example, see the Central Excise and Salt Act, 1954, s. 38, and the Defence of India Act, 1962, s. 41.

115 See the Coffee Act, 1948, s. 43(3), the Delhi Municipal Corporation Act, 1957, s. 479(2), the Khadi and Village Industries Commission Act, 1956, s. 26(3), the Manipur Land Revenue and Land Reforms Act, 1960, s. 169 etc. Rules framed under these Acts, laid for an incomplete period in the Second Lok Sabha were laid afresh in the First Session of Third Lok Sabha.— *L.S. Deb.*, 3-4-1962, cc. 2358, 2611-12; 7-5-1962, c. 2877; 8-5-1962, c. 3157; 9-5-1962, 3434; and 10-5-1962, c. 3657.

116 Rules issued under the Territorial Councils Act, 1956, were laid on 29 November, 1961 for an incomplete period and were required to be re-laid in the next session—the last session of that Lok Sabha. Since the prescribed period of not less than 30 days was not likely to be completed in that session, the rules were laid afresh in the First Session of Third Lok Sabha on 14 May, 1962.—*L.S. Deb.*, 14-5-1962, c. 4427.

117 *L.S. Deb.*, 23-4-1962, cc. 479-81, for rules etc. under the Mines and Minerals (Regulation and Development) Act, 1957, and the Rice-Milling Industry (Regulation) Act, 1958; *L.S. Deb.*, 26-4-1962, cc. 1103-04, for rules etc., framed under the Representation of the People Act, 1950.

Notifications relating to a State under the President's rule which should have been re-laid on the Table, are not re-laid if the President in the meantime has revoked the proclamation assuming to himself the functions of the State¹¹⁸.

After the prorogation of a session of Lok Sabha, the Secretariat examines the papers laid on the Table during the session to find out if the period specified, if any, in respect thereof under the respective Parent Acts, has been completed. In cases where the specified period has not been so completed in accordance with the statutory provision, the concerned Ministries are asked to arrange for their re-laying in the next session. In the Bulletin, a foot-note is given in regard to the paper or papers so relaid.

The question of propriety on the part of Government issuing taxation notifications on the eve of the Budget session has been, time and again, raised in Parliament. On 4 March, 1986, the Chairman, Rajya Sabha referred the question of Government issuing notifications exempting various items from payment of customs duty just before the Budget session, to the Committee on Public Accounts. The Committee *inter alia* stated that while there should be strict compliance with the principle that no proposal involving taxation should be given effect to by Government unless and until Parliament had discussed and approved it, a certain degree of flexibility must exist to enable Government to deal with an emergent situation in the light of public interest. It further stated that some notifications could have been held back until Parliament had had an opportunity to consider them. The Committee recorded that post-notification approval by Parliament was no substitute for a prior debate and discussion of taxation proposals especially when they departed from the approved budget.

While referring to these observations of the PAC on 11 November, 1986, the Chairman, Rajya Sabha observed that Government should take due note of this and endeavour to ensure that resort to issuing notifications having revenue implications should be minimal¹¹⁹.

Laying of Sensitive Notifications

Sensitive notifications are those notifications which make changes in export duties, major changes in procedures and changes in import and Central Excise Duties involving revenue of more than rupees fifty lakhs per annum, except cases where an existing concession is being continued.

The following procedure is adopted in regard to laying of sensitive notifications on the Table:—

- (i) All sensitive notifications are required to be published in Gazette Extraordinary.

118 *Ibid.*, (II), 11-12-1956, c. 2491.

119 *R.S. Deb.*, 11-11-1986, cc. 186-87.

Observation
on JMCI
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OBSERVATIONS ON RAISED ON THE JMCI REPORT:

1. Commission has concluded that the death of Okara Ichiro was passed off as the death of Netaji. But nothing has been mentioned about this Okara Ichiro, e.g. who was he, whether he was really an obedient officer of the Taiwan Military Government Army, what about his family members, do they admit that he actually died because of heart failure and if so, how was he cremated and what happened to his ashes. If there is no existence of this man, then the death story of Netaji in the plane crash is to be believed on the ground that the Japanese wanted to hide the fact of Netaji's death and used fictitious particulars of Okara Ichiro.

2. Regarding non-publication of report of the plane crash of 18th August, 1945 in the newspapers, it is pointed out that the Japanese were in control of Taiwan till 25th October, 1945; and if the Japanese army wanted the local newspapers not to publish the tidings of the plane crash to keep it secret, it is felt that there is no wonder that the plane crash news did not find a place in the local newspapers.

3. Commission's conclusion that absence of any entry relating to the cremation of the co-passengers of Netaji in the Cremation Register for the period from 17th to 27th August, 1945, defeats the story of plane crash, is not justified on the same ground that if the Japanese wanted to keep the news about Netaji's death a secret, they would certainly not keep any evidence of others also in the register and even if kept, it must be in some other name as was done in case of Netaji.

4. Regarding the altitude from where the plane nose-dived, it is stated that the plane crashed immediately after take off. So, it could not, perhaps, gain that height (12-14000 feet) as planes were not technologically very advanced. Moreover, the plane crashed within the precinct of the airfield. If it really had gained that height, it could not have fallen within the boundary of the airfield.

5. Regarding doubt about third degree burn to Netaji on the ground that when the plane was nose-diving nobody could remain seated at their original position, it is stated that the plane was very small and space scanty and during the fall of the plane, there might not have been any major change in the seating position of Netaji.

6. Commission has doubted the veracity of the copy of death certificate which Dr. Yoshimi had given to one Toshikazu and has called it a 'manufactured one' without giving any analysis of this copy. The copy enclosed with the report is an English version. The original must have been in Japanese and it may so happen that because of

Netaji's stature and statesmanship, Dr. Yoshimi kept a copy as a memento and from that copy he gave a photo copy to Tozhikazu. It is not known whether the Commission had examined the original one (from which it was translated), whether that was a typed one or hand-written (computer was perhaps not in existence in 1945, whether it was a carbon copy, quality of paper (paper quality must not be same in 1945)..

7. Commission has presumed that Netaji has disappeared from Taipei because Habibur Rahman was found there along with others to 'cook up the story of Netaji's death in place crash'. Why not from Tourane where they all including Netaji, Habibur Rahman and others halted for the night on 17th August 1945 so as to give lot of time to Netaji to disappear.

8. Lastly, if Netaji did not really die in the plane crash, where has he gone. It was well-nigh impossible for someone like Netaji to remain hidden in some corner of Asia or elsewhere running away from his cherished dream of freeing India from the alien rulers. Under no stretch of imagination can it be said that he was coward and seeing that the Japanese were surrendering and the Russians were aligning with the Allied Forces, he would give the fight for independence leaving his comrades in the lurch and live a secluded indolent life in some corner of this planet. This simply does not fit in with the indomitable character of Netaji.

Comparative statement of the Shah Nawaz Committee, Khosla Commission and JMCI

Sl. No.	Grounds taken by JMCI to conclude that Netaji did not die in the plane crash in Taihoku Airport on 18 th August, 1945.	Whether Shah Nawaz Committee considered this point	Whether Khosla Commission considered this point
1.	Absence of contemporaneous documents.	It concluded on the evidence given by witnesses	As in previous column
2.	After August 23, 1945 and prior to appointment of Shah Nawaz Committee, quite a number of enquiries were held at the behest of British and American Intelligence Authorities to ascertain the truth, but the reports are based solely on the oral testimony of some witnesses <u>without caring to search for the relevant records of Taihoku Airport, Army Hospital, Taipei Municipal Bureau of Health and Hygiene (Bureau) and Taipei City Crematorium (Page 59-60).</u>	Yes	Yes
3.	One <u>Shri Harin Shah</u> , who enquired into the matter and appeared before the Shah Nawaz Committee, <u>got copies of cremation certificate where name of one "Okara Ichiro" is mentioned and date of death is mentioned as 19-8-1945. (Page 60-62).</u>	Harin Shah appeared before it, but the <u>report does not speak of such certificate</u>	Yes
4.	This certificate did not relate to Netaji. On a request of Govt. of India, the Japanese Govt. had also sent the entries against serial No. 2641 in the Cremation Register and the particulars given there are those of the same 'Okara Ichiro' (Page 66).	No	Yes
5.	Absence of death certificate of	Non-	As in previous

	Netaji filed before the Crematorium, the application seeking permission to cremate the dead body, the permit granted for cremation and the entries in the Cremation Register in proof of the cremation, makes the evidence of witnesses who testified to Netaji's death and cremation vulnerable and raises a strong reasonable and bona fide doubt about the story of his death in the plane crash (Page 72).	availability of documents discussed	column
6.	Commission's observation about the doubtfulness of the air crash story receives unflinching support from the translation of the entries made in the Cremation Register during the period from 17 August 1945 to 27 August, 1945 sent by the Taipei Government where names of Netaji Subhas Chandra Bose or Chandra Bose, Pilot Takizawa, Co-pilot Aoyagi and General Shidei were not found. So, absence of entry relating to their cremation defeats the story of the death of Netaji and some of his co-passengers in the plane crash (Page 74).	No	No
7.	Commission has concluded that these findings are sufficient to hold that the story of Netaji's death in the air crash has not at all been proved (Page 76).	It concluded that Netaji died in the plane crash	As in the previous column
8.	The said plane nose-dived from a fairly high altitude (possibly over 12 - 14000 feet) and in that case none of the passengers could survive. Moreover, in that situation Netaji could not have remained seated at his place near the petrol tank and, therefore, the story of third degree burn cannot be believed (Page 89).	The height has been given as 20-50 meters and the plane was very small and Netaji was sitting just behind the	The height has been given as 20-50 meters.

		Pilot and there was none opposite him.	
9.	Non availability of plane crash document (Page 91) and absence of the report in the microfilmed newspapers of the relevant period in the Institute of Taiwanese History, also makes the story of plane crash unreliable (Page 93-94).	Point regarding non-availability of records was considered.	Same as in the previous column
10.	Shri S.A. Iyer, ex-Publicity and Propaganda Minister of Azad Hind Govt., has stated in his book "Unto Him A Witness", that <u>his request to go to the spot of the accident on 20 August 1945, when he was going to Tokyo from Saigon by plane, was not acceded to by the Japanese Govt. and this was to suppress the facts from him</u> (Page 93).	Shri Iyer was examined and <u>no such remarks recorded</u>	Shri Iyer was examined and <u>no such remarks recorded</u>
11.	Netaji succeeded in evading the Allied Forces and escaping out of their reach and as a camouflage thereof, the entire make-belief story of air crash story and death of Netaji was engineered by the Japanese Army authorities (Page 106).	No	No
12.	Habibur Rahman took an active part in the escape plan and this is proved from the fact that the photo of the dead body (excluding face) was taken on his request and the plausible inference was to hide the identity of the dead body as it was not of Netaji, but of Okara Ichiro.	No	No
13.	As regards the point of disappearance of Netaji, it is Taipei since Habibur Rahman was found present in Taipei cooking up the story (along with others) of Netaji's	No	No

	death there (Page 107).		
14.	As the ashes collected were of Okara Ichiro, the ashes lying in the <u>Renkoji Temple cannot be of Netaji</u> (Page 107).	Concluded that the ashes are of Netaji	As in the previous column
15.	A few days after the alleged plane crash on 18 August 1945, the Japanese army authorities persuaded Dr. Tsuruta to issue a death certificate in the name of somebody else to be used as proof of Netaji's death to facilitate cremation (Page 98-9).	No	No
16.	The death certificate (annexed to the report at Page 299) issued by Dr. Yoshimi of Army Hospital, Taipei, who treated Netaji after the plane crash and who testified before the earlier Committee and Commission, is a manufactured one (Page 75).	No	No
17.	Habibur Rahman's non-communication of the news about the death of Netaji to the INA immediately thereafter also raises serious doubt about the story of plane crash and death of Netaji (Page 91).	No	No

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Time frame

Sl. No.	Item of work	Time schedule
1.	Photocopying of the report in two copies	2 nd week of January
2.	Hindi translation of the report by Hindi Section of MHA	Three weeks i.e. completion by 10 th February, 2006.
3.	Printing of the report in English and Hindi with two annexures	If photo-copied in MHA completion by mid February If printed completion by end February
4.	Preparation of Cabinet Note	One week from clearance
5.	Tabling of the report	By the end of April, 2006.

Ministry of Home Affairs
Security Division

Sub: Laying the J.M.C.I Report in Parliament.

In the last weekly meeting taken by the H.S. on 14th March,06 the H.S. wanted to know whether the Lok sabha / Rajya Sabha has been informed that the J.M.C.I report would be placed on 10th May,2006. As per provision of the Commission of Inquiry Act 1952, the J.M.C.I report is to be placed before each house of parliament with in a period of six month of the submission of the report by the Commission through the Govt.

Necessary action in this matter should be immediately taken.


(S.C.Bardhan)
OSD(Security)

U.S.(Arms) (Sh. Goswami)



CHAPTER ONE – PREAMBLE

Here the background has been enumerated. It mentions about the appointment of the three-member Committee in 1956 with Shri Shah Nawaz Khan as its members. After considering the evidence collected by the Committee, two of them (Shri Shah Nawaz Khan and Shri S.N. Maitra) came to the conclusion that Netaji had died in the plane crash. Shri Suresh Chandra Bose submitted a dissenting report stating that there had been no plane crash involving Netaji's death. The majority report was accepted by the Government.

2. The majority report of the Committee did not, however, satisfy the public in general. So, the Government of India appointed another Commission headed by Shri G.D. Khosla, Retired Chief Justice of Punjab High Court, in 1970. This Commission also came to the conclusion that Netaji had succumbed to his injuries sustained in the plane crash at Taihoku and that his ashes had been taken to Tokyo.

3. The findings of the Khosla Commission also did not end the controversy surrounding Netaji's death. So, Government of India appointed another Commission under Justice M.K. Mukherjee in 1999.

4. The terms of reference of this Commission was to inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith including –

- a) whether Netaji Subhas Chandra Bose is dead or alive;
- b) if he is dead, whether he died in the plane crash, as alleged;
- c) whether the ashes in the Japanese temple are ashes of Netaji;
- d) whether he has died in any other manner at any other place and, if so, when and how;
- e) if he is alive, in respect of his whereabouts.

CHAPTER TWO – THE INQUIRY

In Chapter Two of the report, the Commission has mentioned the following difficulties which they encountered in the course of the inquiry –

- i) The Commission did not get file No. 12(226)/56-PM (Investigation into the circumstances leading to the death of Subhash Chandra Bose) and the stand taken by the Cabinet

Secretariat about this file, according to the Commission, is "evasive and unfathomable" (Page 13).

- ii) U.K. Government did not give access to two files as they were "closed" (meaning cannot be divulged) (Page 18).
- iii) The Commission requested the MEA for engagement of suitable scholars or students of post-graduate class preferably of law, historical research, political science etc. to do archival research at various American repositories of relevant historical documents on Netaji, as agreed to by the Director of Textual Archives Services Division of the USA. But it was not acceded to by MEA (Page 21).
- iv) The Commission wanted access being given by the Renkoji Temple authorities to a Scientist for the purpose of collection of the potentially less charred pieces of bones from the contents of the urn kept there for DNA test. But this could not be done for the Temple authority's reticence (Page 31).

2. Here the Commission mentions that owing to lapse of long time, a considerable number of witnesses whose evidence might have been helpful to this inquiry were found to be either dead or untraceable or too old and infirm to depose and quite a number of documents which might have been relevant to the inquiry could not be traced. In this connection the Commission points out that in compliance with its direction, Govt. of India filed two applications supported by affidavits claiming privilege under Sections 123 and 124 of the Evidence Act and Article 74(2) of the Constitution of India in respect of documents contained in three files. The Commission also mentions here that it visited England, Taiwan and Russian Federation in connection with the inquiry.

3. Although the Indian Evidence Act was not be applicable to the proceedings before the Commission as held by High Court and Supreme Court, it treated only those materials brought before it as evidence which were legally probative for a prudent mind.

CHAPTER THREE – WHETHER NETAJI SUBHAS CHANDRA BOSE IS DEAD OR ALIVE

Under this Chapter, the Commission has mentioned the following versions relating to the death of Netaji –

- i) He was murdered at Red Fort in Delhi on August 15, 1945;
- ii) He died in an air crash at Taihoku (now Taipei) in Taiwan (formerly Formosa) on August 18, 1945.

- iii) He died at Dehradun, Uttar Pradesh (now Uttaranchal) in 1977;
- iv) He died at Sheopurkalan in the State of Madhya Pradesh on May 21, 1977; and
- v) He died at Ram Bhawan in Faizabad, Uttar Pradesh, on September 16, 1985.

2. The Commission has stated that the average life span of an Indian is 70 – 75 years and that Netaji would be more than 108 years now (his date of being 23rd January, 1897). It has also added that it is 'possible' for a person to live beyond the average life span of an Indian and in a rare case even more than 100 years. But it has been mentioned that any person or authority entrusted with the duty of investigating into a question of fact has to find an answer thereto depending on whether it is 'probable' and not 'possible'. The distinction between the above two expressions is that while the former means what is likely to happen in the common course of events, the latter means what is unlikely to happen in the common course of events, but may happen in exceptional cases.

3. It has been mentioned that judged in the light of the above principle, if it is found that none of the versions regarding Netaji's death is substantiated, the only legitimate inference that can be drawn at this distant point of time is that Netaji is no more. And on this analogy, the Commission has delved into the different versions of Netaji's death one by one in Chapter Four.

CHAPTER FOUR – DIFFERENT VERSIONS OF NETAJI'S DEATH

(i) Death in the Red Fort:

One Shri Usha Ranjan Bhattacharjee, a resident of Kolkata, filed a statement, supported by an affidavit, before the Commission contending that Netaji was deliberately murdered in the Red Fort on 15th August, 1945 at zero hour. His attention was drawn to a book written by him titled 'Netajike Lal Kellai Hotya' (Netaji was murdered in Red Fort) and when he was asked as to the source of his knowledge of the murder, he stated "the story was given out of presumption and assumption". In view of such admission and absence of any other evidence, the Commission rejected the contention being a figment of imagination.

(ii) Death in the plane crash:

The Commission has mentioned here at the outset that it is not an appellate body sitting in judgment over the finding of the earlier Committee

and Commission (Shah Nawaj Committee and Khosla Commission) and that it has to answer the question (i.e. whether Netaji died in the plane crash) afresh without being in any way influenced by the reasons that weighed on them (the Committee and the Commission) in arriving at their respective conclusions.

2. The Commission has narrated the story of the plane crash as follows –

In the afternoon of August 15, 1945, while Netaji was in Singapore, the Government of Japan officially announced their surrender to the Allied Powers. Although Netaji was also willing to surrender, but his colleagues persuaded him not to do that and instead advised him to go to some Russian territory. Netaji left for Bangkok along with Col. Habibur Rahman and others on August 16, 1945. From there, he went to Saigon on August 17, 1945. As the plane in which Netaji reached Saigon developed some problem, Netaji and Col. Habibur Rahman were accommodated in a Japanese plane and left Saigon for Tokyo via Manchuria and arrived at Tourane on the same day i.e. August 17, 1945. On August 18, 1945, they left for Taihoku (in Formosa) and after a brief halt there for refueling, the plane took off from Taihoku. But immediately thereafter the plane crashed in the airfield and burst into flames. Netaji had suffered serious burn injuries and taken to the military hospital where he succumbed to his injuries. Col. Habibur Rahman suffered minor injuries. Netaji was cremated a day or two later in the Crematorium of Taipei and the ashes were collected and sent in a box to Tokyo and ultimately enshrined in the local Renkoji Temple.

3. To prove Netaji's death in the plane crash, seven witnesses were testified before the Commission. None of them had any personal knowledge about the death of Netaji in the plane crash, nor did they produce any contemporary documents in support thereof. Their assertion on this point was based on either hearsay or belief or result of inquiries. So, the Commission did not find that to be admissible evidence or reliable evidence to hold that Netaji died in the plane crash.

4. In course of argument, the deponents and/or their learned counsel put forward the following grounds before the Committee, earlier Commission and this Commission against the evidence of those who spoke in support of the story of the plane crash –

- i) Evidence is bristled with material discrepancies and contradictions.
- ii) If the bomber in which Netaji was traveling had no seats and for that matter no seat belt and all passengers were squatting on the floor of the plane and as the plane had nosedived from a



height of about 12 – 14,000 feet, all the luggage and passengers would be thrown near the cockpit and in that event even half of the passengers could not have survived (as per the evidence only two died on the spot and the rest could come out). Also, as per the evidence, Netaji was seated adjacent to the petrol tank and as such gasoline from the tank fell all over his body resulting in third degree burns. This could not be believed because at the time when the plane was nosediving, Netaji could not remain seated near the petrol tank.

- iii) Not a scrap of paper was there to corroborate the oral version of the plane crash. This was important because two very important persons – Netaji, the head of the Provisional Government of Free India, which was recognized by the Japanese Government, and Shidei, a General of the Japanese army - died in the plane crash.
- iv) The Government of Taiwan and the Taipei City Government admitted before the Chairman of the Commission that they had no document in proof of the fact that there was any plane accident at the material time.
- v) Senior Counsel appearing for Government of India submitted that there were glaring discrepancies in the evidence adduced regarding the accident.

5. Then the Commission has stated the sequence of events relating to Netaji's treatment in the hospital, his death and cremation as follows –

According to Dr. Yoshimi, who was examined by the earlier Committee, Commission and this Commission, was acting as the chief of Nanmon Military Hospital, Taihoku, where Netaji and other injured were brought after the plane crash, stated that Chandra Bose (as Netaji was so called by the Japanese) had suffered severe burns (third degree) and had little chance of survival. He treated him first and he died shortly after 8 PM. On the night of Netaji's death, Dr. Yoshimi prepared and signed a death certificate writing his name in Japanese (Kata Kana) as "Chandra Bose" and giving the cause of death as "burns of the third degree".

As regards the cremation, initially it was decided to take the body to Tokyo; but subsequently it was decided to cremate it at Taihoku. As deposed by Col. Habibur Rahman before the Shah Nawaz Committee, on August 20 the coffin was taken to Taihoku City Government Crematorium for cremation. On the next day, according to Buddhist custom, a bone from every portion of the burnt body was picked and placed in a wooden box of

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about 8" cube and taken to Nishi (West) Honganji Temple and a special ceremony was held on that day.

6. This evidence has been challenged on the following grounds –

- a) No hospital record regarding nature of injury and nature of treatment given to Netaji is available. Also, no certificate to prove that the dead body was duly cremated is available.
- b) No photograph of the dead body was taken either at the hospital or at the crematorium as an evidence of identification.
- c) Although Netaji was the head of an independent State which was recognized by nine countries including Japan, no military honours befitting a head of an independent State appeared to have been given to the deceased at the time of the funeral.

7. The Commission has stated that after August 23, 1945, when the news of Netaji's death was broadcast and prior to the appointment of Shah Nawaz Committee, quite a number of inquiries were held by the British and the American intelligence authorities to ascertain the truth. But reports of these inquiries indicate that they relied solely upon oral testimony without caring to search for the relevant records of Taihoku airport, the army hospital, Taipei Municipal Bureau of Health & Hygiene (Bureau) etc. One Shri Harin Shah, the editor of "Indian Worker", which was the official journal of Indian National Trade Union Congress, and who testified as a witness before the Shah Nawaz Committee, paid a visit to Taipei towards the end of August, 1946 and made an inquiry into the story of the air crash and of Netaji's Death at Taihoku. In the Bureau's office at Taipei, he met two clerks through the Director and got the following records –

- i) Doctor's report on the death of Netaji;
- ii) The police officer's report; and
- iii) The Certificate issued by the Bureau permitting cremation.

The English translation of the Doctor's report shows that the name mentioned was Okara Ichiro, date of death 19th August, 1945 and nature of sickness was Heart Failure.

8. Shri Shah next stated that the police report and the cremation permit also more or less tallied with the Doctor's report. On being asked as to why false particulars had been furnished in the certificate with regard to the identity and other details of Netaji, it was replied that the Japanese officer accompanying the dead body had told them that for state reasons the

particulars of the person had to be kept confidential. The Commission has stated here that the particulars in the documents did not relate to Netaji.

9. The Commission has also mentioned that during Shah Nawaz Committee inquiry also these reports were obtained. This Commission, however, did not get them from the Government of India. They obtained the same from the U.K. National Archives on their own initiative. Further, during that time the Japanese Government was also requested to produce the same documents and the Ministry of Foreign Affairs of the Japan Government forwarded a copy of entry in Serial No. 2641 of the Cremation Register made by the Bureau in Taipei and the name mentioned was Ichiro Okura. The three sets of documents received from three different sources viz. from the office of the Director of Bureau, Taipei, from the U.K. National Archives and from the Japanese Government, unerringly demonstrate that the particulars furnished therein tally with one another.

10. Thereafter the Commission has stated that according to the regulations then prevailing in Taipei, for cremation of a dead body, a doctor's report of his death had to be obtained first. Then an application in the prescribed form for a permit for cremation was required to be filed by a family member of the deceased. In that form, detailed particulars regarding date of birth, nature of illness causing the death etc. were required to be furnished to obtain the permission to cremate the dead body. However, during the war, in case of military personnel without family members there, permission for cremation was granted on the strength of a certificate from a military hospital.

11. That the two doctors, namely Dr. Yoshimi and Dr. Tsuruta, were fully aware of these regulations will be evident from their statement made before the Committee and the two Commissions. Before the Committee, the former stated that "On the 18 August I had issued a medical certificate of death in respect of the deceased person writing his name in Japanese as Chandra Bose and giving the cause of death as 'burn of the third degree'. Before the earlier Commission, Dr. Yoshimi had averred that he prepared a death certificate and the name mentioned therein was Chandra Bose and gave the reason of death as 'general burning all over the body, degree three'. Dr. Yoshimi was examined by this Commission and he has stated that he mentioned the name of the deceased as Chandra Bose and the cause of death was mentioned as third degree burns. He also mentioned that he applied to the Taiwan authority on 18-8-1945 for the cremation permit and attached the death certificate with the application form.

12. If the aforesaid evidence of the two doctors is to be believed then the body of Netaji would have to be taken to the Bureau and on the basis of the

application made by Dr. Yoshimi, the permit would have been issued and on his cremation there would have been entries in the cremation register with a specific serial No. allotted and the name of Dr. Yoshimi would appear in the column meant for writing the name of the applicant seeking permission for cremation of the body. But in the register of cremation at the Municipal Health Centre, there was an entry in the name of Ichiro Okura who was cremated on 22-8-1945 and no other records exist.

13. From the above, the Commission found that the records – death certificate of Netaji filed before the Bureau, the application seeking permission to cremate the dead body, the permit granted for his cremation and entry in the cremation register in proof of cremation – were absent and this made the story of Netaji's Death in the air crash vulnerable and raises reasonable and bona fide doubt about the story.

14. The above observation of the Commission also receives unflinching support from the following –

The Chairman requested the Government of Taiwan to send certain records including all entries in the cremation register of the old crematorium of Taipei city during the period from 18 August to 24 August 1945. Ministry of Foreign Affairs of Taiwan sent the records including the entries in the register. Thereafter the Commission requisitioned the services of Anglo-Japanese translator through the Japanese Consulate in Kolkata. According to the translation given, there is no entry in the name of Netaji Subhash Chandra Bose/Chandra Bose, pilot Takizawa, Co-pilot Aoyagi and General Shidei (who, according to witnesses, were with Netaji as co-passengers) in the documents of cremation during the period from 17 August to 27 August 1945. Absence of any entry relating to their cremation defeats the story of death of Netaji and some of his co-passengers in the plane crash.

15. Quite a number of deponents and/or their counsel had submitted before the Commission that there was evidence that Netaji did not die in the plane crash and that he was alive beyond August 18 1945. Some of them had even asserted that Netaji had been able to go to Russia pursuant to an excogitated plan. The Commission received several statements supported by affidavits and supplementary affidavits that there were relevant documents in several archives of Russian Federation relating to Netaji. So the Commission decided to visit Russian Federation to hold inquiry including examination of documents relating to Netaji. Accordingly the Commission got in touch with the MEA with request to make necessary arrangements so as to enable it to visit the archives and also to obtain the consent of the

persons listed by one Dr. (Mrs.) Purabi Roy, who claimed that she had been visiting Russian Federation at regular intervals to do research work on Indo-Soviet relations for a long time. In response thereto, three archives sent documents translated into English and six others intimated that they had no documents concerning Netaji. So far as the persons to be examined were concerned, some of them were dead and some were not traceable. These data were furnished by MEA.

16. Ultimately the Commission decided to visit Russia in September 2005. and scrutinized various documents and some witnesses. But nothing was found which could be of relevance to the current terms of reference of the Commission.

17. To disprove the story of Netaji's death in the plane crash, some documents were filed before the Commission stating that the Commission should go to Saigon (Vietnam) as according to them evidence would be available there to form that contention. But on scrutiny the Commission had rejected the same.

18. Another ground canvassed before the Commission is based on certain passages in the "Transfer of Power 1942-7 (Vol.VI). Attention was drawn to a letter dated 23-8-1945 written by Sir F. Mudie (Home Member in the Viceroy's Executive Council) to Sir E. Jenkins (Private Secretary to the Viceroy) (Pages 137-140) giving alternative proposals for dealing with Netaji Subhas Chandra Bose. It was contended that if Netaji had died on 18 August 1945, such proposals would not have been given. Also, the news of Netaji's death was first broadcast on that day itself i.e. 23 August 1945.

19. Attention of the Commission was also drawn to the minute of a meeting of India and Burma Committee of British Cabinet presided over by Prime Minister Attlee on October 25 1945 (Pages 402-406). The relevant portion reads as follows –

"Treatment of Indian Civilian Renegades.

The committee turned to a consideration of the principals which should govern the trial and punishment of India civilian offenders. The following were the principal points raised in discussion:-

- 1) It was generally agreed that the only civilian renegade of importance was Subhas Chandra Bose.
- 2)
- 3)

It was contended that this minute would not have been recorded if Netaji had died in the plane crash.

20. A contention was also raised that the story of the plane crash was contrived pursuant to a well laid out plan to which the Japanese military authority was also a party to ensure Netaji's safe passage out of Japan and the reach of the Allied Powers. The Commission has stated that such plan to escape could not have been thought of without the active support and cooperation of the Japanese military authority. The Commission has also stated that Netaji's decision to go out of Japan and the reach of the Allied Forces in the wake of the surrender of the Japanese was pursuant to a plan formulated on the advice and with the active cooperation and support of the Japanese military authorities stands established by overwhelming evidence adduced before the Committee and the two Commissions and a detailed discussion on this issue will serve no purpose except increasing the volume of this report. Suffice it to say that on August 16, 1945 while in Bangkok Netaji had a meeting with General Isoda, the Head of Hikari Kikan and his main task was to liaise between the Japanese Govt. and a combined group of India Independence League, Indian National Army and the Provisional Govt. of Free India. General Isoda testified that these plans were secret and the purpose of Netaji's flight to Soviet Union was to continue his independence movement from there.

21. It has also been contended before the Commission that the story of Netaji's death in the plane crash and of his cremation was concocted to ensure the success of Netaji's escape plan by hoodwinking the Allied Forces.

22. Another significant fact that raises a serious doubt about the truth of Netaji's death in the plane crash is the unusual conduct of Habibur Rahman as evinced by his non-communication of the above news. If Netaji had really died in the manner as alleged, it was expected that he (Habibar Rahman) would, as the only surviving member of INA, immediately report about it, more so when it related to the death of his Supreme Commander to his superiors in the army and his colleagues in Bangkok, Singapore, Saigon and Tokyo. His such conspicuous silence cannot be explained in any way except that he was playing a very vital role along with the Japanese army authority in formulation and execution of Netaji's escape plan.

23. The next circumstance that makes the story of the plane accident suspect is the non-availability of any document of the air crash. Even though the Japanese were in control of Taipei till 25-10-1945 and an inquiry into the accident was held as early as September 13, 1945 by a team of British Intelligence headed by Mr. Finney, but it does not appear that any attempt was made by them to look for the airport records.

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24. Another circumstance that goes against the story of Netaji's death in the plane crash on August 18, 1945 at Taihoku and lends support to the escape plan is the message that was sent by the Chief of Staff, Southern Army to O.C., Kikari Kikan on August 20, 1945 to say that 'T' (code name of Netaji) had died as a result of an accident and his body had been flown to Tokyo by the Formosan Army.

25. The other impediment before the Commission to accept the story of the plane crash was the evidence of Shri S.A. Ayer, ex-Publicity and Propaganda Minister of Azad Hind Government, as corroborated by the relevant passages of his Book titled "Unto him a witness". At page 86 of the book he has stated that he was informed of the death of Netaji by Rear Admiral Chuda of Japanese Navy on 20-8-1945 and that his request to see the body of Netaji with his own eyes was not acceded to. It is clear from the evidence of Shri Ayer that he refused to believe that story unless he saw the dead body with his own eyes.

26. The Commission has also given another circumstance which is pertinent to the issue of the plane crash. During the Commission's visit to Taiwan, the Chairman requested the concerned officers of the Taiwan City Government to show the records on the basis of which they had stated that there was no plane crash on August 18, 1945. They told him that the information was based solely on contemporaneous newspaper accounts kept in their archives. The visit of the Chairman to the Institute of Taiwanese History and perusal of the microfilmed daily newspapers confirmed that there was no report of any plane crash on August 18, 1945. Had there been any plane crash relating to the death of Netaji, the facts would have certainly been published in the local daily 'Central Daily News'. Even the news of lesser importance relating to Netaji was published in the said newspapers dated September 14, 1945 as given below -

Central Daily News, 14 September 1945

The India Government decided today to release the younger brother (s) and family of Bose who were detained since the beginning of the Japanese war. The members belonging to the Bose family (clan) who opposed the Government will also be set free. The official announcement states, "In view of the Japanese surrender, there is no need for detaining these people for a long time".

27. From the above, the Commission has concluded that on a conspectus of all the facts and circumstances relevant to the above issues it stands established that emplaning at Saigon on August 17, 1945, Netaji succeeded in evading the Allied Forces and escaping out of their reach and as a camouflage thereof the entire make-belief story of the air crash, Netaji's

death therein and his cremation was engineered by the Japanese army authorities including the two doctors and Habibur Rahman and then aired on August 23, 1945 through a statement prepared by Shri S.A. Ayer at the dictation of the aforesaid authorities to give imprimatur of the INA to the death news of Netaji. Obviously, in cooking up the story of Netaji's death in the plane crash and giving it a modicum of truth they (the Japanese military authorities and Habibur Raman) had no other alternative than resorting to suppression of facts and in so doing they not only invited material contradictions in their evidence as pointed out by the deponents and their learned Counsel, but also left latent loopholes which have now been discovered. Though no firm opinion can be expressed about Netaji's exit point, it can legitimately be inferred, having regard to the established fact that Habibur Rahman who accompanied him from Saigon was next found present in Taipei cooking up a story (along with others) of his death there, that Netaji disappeared therefrom (Taipei). But the question whether Netaji thereafter landed in Russia or elsewhere cannot be answered for dearth of evidence.

28. As regards the journey of the ashes collected by Habibur Rahman from the crematorium at Taipei to the Renkoji Temple in Japan, the evidence is consistent and, therefore, needs no discussion. Since the ashes collected were of Ichiro Okura – not of Netaji – the only inference that can be drawn is that the ashes lying in that temple cannot be of Netaji.

(iii) Death in Dehradun:

This version stems from the setting up of an Ashram by a Sadhu known as Sharadanandji in about 1959 named and styled as 'Shoulmari Ashram' at a place called Falakata in the district of Cooch Behar which borders Bangladesh, Bhutan and Nepal. He stayed there for about 6/7 years and ultimately settled down in Dehradun in 1973 and died there in 1977.

2. Of the 11 witnesses examined on this score, eight have put forward the story that the Sadhu was none other than Netaji, while the other three have disputed the claim. Before the Khosla Commission also some witnesses made a similar statement. Distinguishing the Sadhu's appearance, accent and his manner of speaking from those of Netaji, Niharandu Dutta Majumdar, who deposed before the Khosla Commission as witness No. KW 174, stated that the Sadhu did not resemble Netaji and he spoke the dialect of the Sylhet border in East Bengal, whereas Netaji was a man of Cuttack (Orissa) with his ancestral house in South 24-Parganas in West Bengal.

3. The Commission has concluded that when the real identity of a person is the issue, his evidence is undoubtedly of great importance unless, of course, it is proved that he was suppressing his identity with an oblique motive or

purpose and as in the instant case there is no reliable evidence to prove that the Sadhu was Netaji, the question of his (Netaji's) death in Dehradun in 1977 does not arise.

(iv) Death in Sheopurkalan:

One Shri Jagannath Prosad Gupta, a resident of village Nagda in the district of Sheopurkalan (Madhya Pradesh) filed a statement supported by an affidavit asserting that during the days of struggle for freedom of India, a plane crash-landed in the neighbouring village of Pandola and the three persons who survived were a 'Sadhu', Col. Habibur Rahman and Hitler. Later on, the 'Sadhu' came to their village and started living on the bank of the river nearby. According to Shri Gupta, the Sadhu is none other than Netaji and that he died on May 21, 1977. He also stated that after the death of the Sadhu, the MP Govt. had seized all records pertaining to the Sadhu and those documents contained the proof of his identity as Netaji. Three other persons also supported Shri Gupta's statement by affidavits. Commission examined all the four persons at Sheopurkalan, and found that their claim that the Sadhu was Netaji was wholly unfounded. The documents seized by the MP Police also did not support Sri Gupta's contention. The story of plane crash in 1946 was also found to be absurd on the face of it. So, the Commission rejected this claim.

(v) Death in Faizabad:

The common case that has been made out before the Commission by three persons (supported by affidavits) is that after the death of Stalin in March, 1953, Netaji escaped from the then Soviet Russia and after coming to India lived at different places in UP and lastly at 'Rambhawan' in Faizabad. They also stated that in September 1985, he left Rambhawan for an unknown destination leaving behind a large number of household articles including his family photos, books, letters and other documents in that house and that custody of the same was taken by the DM, Faizabad and kept in the treasury there.

2. On thorough scrutiny of more than 2600 items lying there, the Commission felt that about 700 of them might be relevant for its purpose and took them to Kolkata. In asserting their claim that Netaji lived at various places in the State of UP as an ascetic holy man under two different names viz. Gumnamī Baba and Bhagwanji, 31 persons deposed before the Commission. Some of them were left out as their evidence was based either on hearsay or based on belief without any substantial material in forming the same. Some were also excluded by the Commission as their claim is based on the result of their investigation into the mystery surrounding Gumnamī Baba as also several articles they wrote in newspapers, magazines etc. Evidence of

some were not entertained as they admitted that they had not seen Gumnam Baba.

3. The Commission has pointed out that the reports of the experts, to whom the handwritings appearing in some books and journals found in Rambhawan were sent for comparison with the admitted handwritings of Netaji, materially differ. The Commission also sent five teeth out of nine, found in Rambhawan along with samples of blood collected from two descendants on the father's side and three descendants on the mother's side of Netaji to the Central Forensic Science Laboratory, Kolkata, for DNA profiling test to fix the identity of the person to whom the teeth belonged. After subjecting three of the five teeth to the above test, Dr. V.K. Kashyap, DNA expert and Director of the Laboratory, submitted a detailed report with the following opinion –

“From the morphological examination and analysis of SRY gene, mt DNA (HVS I & HVS II), and Y-STR loci in the forwarded Exhibits 1-10, it can be concluded that forwarded teeth (Exhibits 2 to 4) belong to a single human aged male individual (alleged Gumnam Baba). The individual – source of the teeth does not belong to either maternal or paternal DNA lineage of Netaji Subhas Chandra Bose, therefore, cannot be of Netaji Subhas Chandra Bose.”

The Commission has, therefore, stated in conclusion in this chapter that in absence of any clinching evidence to prove that Bhagwanji/Gumnam Baba was Netaji, the question whether he (Netaji) died in Faizabad on September 16, 1985, as testified by some of the witnesses, need not be answered.

CHAPTER FIVE – CONCLUSION

The Commission has given the conclusion in this chapter on the basis of the discussions made in chapter four of the report. The response of the Commission to the terms of reference is set out below in a tabular form -

Terms of reference in the Notification	Conclusion of the Commission
(a) whether Netaji Subhas Chandra Bose is dead or alive;	(a) Netaji Subhas Chandra Bose is dead;

(b) if he is dead, whether he died in the plane crash, as alleged	(b) He did not die in the plane crash, as alleged;
(c) whether the ashes in the Japanese temple are ashes of Netaji;	(c) The ashes in the Japanese temple are not of Netaji;
(d) whether he has died in any other manner at any other place and, if so, when and how;	(d) In absence of any clinching evidence a positive answer cannot be given;
(e) if he is alive, in respect of his whereabouts.	(e) Answer already given in (a) above.

Regarding the ancillary query (vide paragraph 3 of the Notification, the Commission is of the view that consequent upon its above findings, the Central Government can proceed on the basis that he is dead but did not die in the plane crash, as alleged.



Sl. No.	Issue/fact/point/circumstance	Comments of Shah Nawaz Committee on this	Comments of Khosla Commission on this	Comments of Justice Mukherjee Commission of Inquiry on this
1.	Evidence of the plane crash and absence of contemporaneous documents	<p>"It will thus be seen that the evidence given by witnesses before us as to Netaji's death is corroborated by the findings of British and American Intelligence organizations who undertook independent enquiries very soon after the occurrence, and the conclusions of an unofficial enquiry conducted a year later by an Indian journalist. As for the witnesses who have deposed before us, neither from their antecedents, nor from the manner in which they made their statements, has the Committee any reason to disbelieve their stories..... Most of the Japanese witnesses are not now connected with the Government of Japan, and are in no way obliged to give evidence according to any particular brief. They all point to the fact that Netaji Subhas Chandra Bose died at</p>	<p>"After giving the most anxious consideration to all the available evidence, the criticism to which the statements of the various witnesses were subjected and the arguments advanced by counsel, I have reached the conclusion that the story of the aircrash at the Taihoku airfield in Taiwan and the subsequent death of Bose, resulting from burn injuries sustained by him in the crash must be believed. This story is substantiated by the testimony of wholly independent witnesses, four of whom were Bose's co-passengers in the plane which crashed, one is the doctor who attended to him and signed the death certificate..... The doctor, too, appeared to be a most convincing witness of</p>	<p>"So far, the evidence regarding Netaji's death in the plane crash and his cremation has been discussed keeping in view the submissions made by some of the deponents and their learned Counsel (except those relating to the contradictions in the evidence of the witnesses as pointed out by them to which reference will be made later on) and the appraisal thereof has yielded the following findings –</p> <p>a) There is no satisfactory evidence of the plane crash; on the contrary, the story given out in that respect is rather improbable;</p> <p>b) In absence of any contemporaneous record in the hospital, the Bureau and/or the crematorium, the oral account of the witnesses of Netaji's death and cremation cannot be relied upon to arrive at a definitive finding on the</p>

		Taihoku Military Hospital on the night of the 18 th August 1945. We accept this conclusion." (Page 34-35 – para 10).	truth." (Page 49 –para 4.128)	basis thereof; and c) A secret plan was contrived to ensure Netaji's safe passage to which Japanese military authority and Habibur Rahman were parties" (Page 95 – Para 4.12.14)
2.	British and American Intelligence organizations based their report solely on oral evidence.	"Soon after the end of hostilities, the Government of India sent two parties of Intelligence officers (police) headed by Messrs. Finney and Davies to the Far East to enquire about the whereabouts of Netaji Subhas Chandra Bose, and if possible, to arrest him. Two Indian police officers who were in those parties, Mr. H.K. Roy and Mr. K.P. De, appeared before us and gave evidence. The conclusion of the police officers was that Netaji had died as a result of air crash, and they reported to the Government of India accordingly. A parallel enquiry was conducted about the same time at the instance of the Director of Military Intelligence, India, or Admiral Lord Mountbatten's Headquarters at Kandy,	"The papers in the plane must have perished in the fire, because the front portion of the plane where they would normally be kept was completely destroyed. It is only conjecture that such papers must have been prepared ergo, their non-production disproves the crash story. It is against reason, common sense and the rules of evidence to base a conclusion on such an unjustifiable and unsubstantiated assumption. (Page 39 –para 4.86)	"..... after August 23, 1945, when the news of Netaji's death was broadcast, and prior to the appointment of the Shah Nawaz Committee by the Government of India on April 5, 1956 quite a number of inquiries were held at the behest of the British and American Intelligence authorities to ascertain the truth. Reports of these inquiries indicate that they based their findings relying solely upon the oral testimony of some witnesses without caring to search for the relevant records of Taihoku Airport, the Army Hospital, Taipei Municipal Bureau of Health and Hygiene ('Bureau for short) and Taipei City Crematorium to test the veracity of their assertion and, in case no such record was

		through Col. F.G. Figgess, at that time attached to General MacArthur's Headquarters at Tokyo, about Netaji Sbyhas Chandra Bose. The conclusion reached from these reports was that Netaji had died of burns at Taipeh as a result of the air crash." (Page 32-34 – para 8).		found, to incorporate that fact in their respective reports." (Page 59-60 – Para 4.6.11)
3.	Absence of cremation certificate makes the plane crash story doubtful	".... About the cremation, the evidence has come from two Japanese, one Indian (Pakistani), and one Formosan witness. Their stories closely corroborate each other. There is no reason why these witnesses of different origin should tell the same story, unless they themselves took part in the events they described. There has been no suggestion of disposal of Netaji's body in any other way but by cremation at the Taihoku Crematorium. (Page 42 – para 5)	"I, therefore, find it proved beyond all reasonable doubt that Bose traveled in a Japanese bomber from Touraine to Taihoku on the morning of 18 th August, 1945..... The plane crashed to the ground, broke into two parts and caught fire. In this fire the pilot and Genl. Shidei died instantaneously and of the other men on board, the co-pilot Ayoagi died later and Bose also succumbed to his burn injuries during the course of the following night. His body was cremated and ashes were taken to Tokyo." (Page 49 – para 4.129)	"..... the absence of death certificate of Netaji filed before the Bureau, the application seeking permission to cremate his dead body, the permit granted for his cremation and an entry in the cremation register in proof of the cremation makes the evidence of the witnesses, who testified to Netaji's death and cremation, vulnerable and raises a strong reasonable and bona fide doubt about the story of his death by air crash." (Page 72 – para 4.6 end)
4.	Height from which the	"Witnesses inside the plane	"Describing the crash the	"From his evidence (Habibur

	plane nose-dived.	have given different estimates of the height, but most of them say that the maximum height gained was about 30 meters. Mr. A. M.N. Sastri, an Aircraft Inspector of the Directorate General of Civil Aviation, Government of India, has said, in answer to a question, that considering that the aircraft left the ground 50 meters before the end of the runway and started climbing, the figure of 30 to 40 metres given by witness Captain Nakamura aias Yamamoto appeared to him to be reasonable." (Page 19 – para 11)	witnesses stated: The place started, using almost the full length of the runway and took off, and at 30-40 meters above the ground, the plane leaned towards the ground....." (Page 23 – para 4.30) "The story of the crash is narrated by him (Taro Kono) in the following terms: After we took off and the altitude was about 20-30 metres from the ground, the left propeller was blown off and the left engine was torn off" (Page 24 – para 4.33)	Rahman) it is seen that not only he testified to the above fact but went on further to say that the plane nosedived from a fairly high altitude "possibly over 12-14000 feet". If this evidence of Habihar Rahman is to be believed then none of the 12/13 passengers – not to speak of the crew members – could have survived." (Page 89 – para 4.12.6)
5.	Non-availability of any document of the air crash makes the story of the accident suspect	"In fact, as will be seen, different witnesses have given different stories, which would disprove any suggestion of "promoting". So, notwithstanding discrepancies and variations, which are only too likely after the lapse of so many years, the statements of witnesses must be taken as worthy of credit. These statements are corroborated by enquiries through military and	"The papers in the plane must have perished in the fire, because the front portion of the plane where they would normally be kept was completely destroyed. It is only conjecture that such papers must have been prepared ergo, their non-production disproves the crash story. It is against reason, common sense and the rules of	"The next circumstance that makes the story of the accident suspect is the non-availability of any document of the air crash. Even though the Japanese were in control of Taipei till October 25, 1945 (when the Chinese took over) and an inquiry into the accident was held as early as September 13, 1945 by a team of British Intelligence headed by Mr. Finney it does not

		non-official channels soon after the events. They all point to the fact that Netaji Subhas Chandra Bose died at Taihoku Military Hospital on the night of the 18 th August 1945. We accept this conclusion." (Page 35 – para 10.	evidence to base a conclusion on such an unjustifiable and unsubstantiated assumption. (Page 39 – para 4.86)	appear that any attempt was made by them to look for the Airport records." (Page 91 – Para 4.12.8)
6.	Shri S.A. Ayer's views in his book "UNTO HIM A WITNESS"	"The news (about Netaji's death in the plane crash) was broken to Mr. S.A. Ayer by Lt. Col. Tada, who was flying with him to Tokyo, on the afternoon of the 20 th at Canton." (Page 31 – para 6)	<p>"It is clear, however, that the witness ultimately accepted the crash story, because at Tokyo, he received <u>Netaji's ashes</u> at the <u>Imperial Japanese Headquarters</u> and helped to <u>carry them to the Renkoji Temple</u>. He treated the ashes with the reverence due to his leader...." (page 36 – para 4.71)</p> <p>"Iyer prepared a report in which he discussed the story of the fatal air crash in considerable detail. The view expressed by him was that Netaji had, in fact, succumbed to injuries sustained by him in an aircrash on the Taihoku airfield. He went on to say "in conclusion I would repeat that I have not the</p>	<p>"The other impediment to the acceptance of the story of the plane crash is furnished by the evidence of Shri S.A. Ayer, ex-Publicity and Propaganda Minister of Azad Hind Government as corroborated by the relevant passages of his book titled "UNTO HIM A WITNESS' (Ex 308). From Shri Ayer's evidence referred to above it is manifest that on receiving the news of Netaji's death he refused to believe that he had died in the plane crash " (Page 93 – Para 4.12.11)</p>

			<p>faintest doubt in my mind that the ashes that are enshrined in the Renkoji temple in Tokyo are of Netaji's..." (Page 36 – para 4.72)</p> <p>"The witness has written a book "UNTO HIM A WITNESS", and in this book also the witness reiterated his belief that Bose's plane had crashed and he had died at Taihoku....." (Page 36 – para 4.73)</p>	
7.	Escape theory	<p>"..... The Japanese Government helped him to escape, and they have, therefore, put out an elaborate deception story which is supported by Japanese witnesses. As for Col. Habibur Rehman, he is bound by an oath of secrecy and his injuries are faked. These are large presumptions. As has been stated before, there is a great deal of evidence that the plane had crashed and Netaji had died. There is no reason to disbelieve the numerous witnesses belonging to Japanese</p>	<p>"I am not prepared to accept the contention that the entire military organization of Japan had entered into a conspiracy to put forward a false story in order to cover up Bose's escape. Such a hypothesis is foreign to reason and to human nature. Most of the witnesses who gave evidence impressed me by their frank and honest demeanour it is only necessary to say that this criticism does not shake the strength and the value of the evidence."</p>	<p>"On a conspectus of all the facts and circumstances relevant to the above issues it stands established that emplaning at Saigon on August 17, 1945 Netaji succeeded in evading the Allied Forces and escaping out of their reach and as a camouflage thereof the entire make-belief story of the air crash, Netaji's death therein and his cremation was engineered by the Japanese army authorities" (Page 106 – para 4.12.18)</p>

		<p>and other nations. From medical evidence it appears clear that the injuries of Col. Rehman were genuine. If he was under any oath of secrecy, surely the others, particularly the Japanese witnesses, were not. Yet they have corroborated each other. So the line of reasoning of this school cannot be accepted.” (Page 35-36 – para 11)</p>	(Page 49 – para 4.128)	
8.	<u>Ashes of Netaji</u>	<p>“From what has been said, it will be seen that the ashes were moved in stages from the crematorium to Nishi Honganji temple, from there to Minami Aerodrome, and thence to Tokyo Imperial General Headquarters. The progress thereafter was from the Imperial General Headquarters, first to Mr. Ramamurti’s house, and then to Mrs. Sahay’s house, and finally to the Renkoji temple. There is no break in the chain.” (Page 50 – para 7)</p> <p>“..... After having examined the statement of these witnesses, it is clear that the reasons for doubting that the</p>	<p>“I, therefore, find it proved beyond all reasonable doubt that Bose traveled in a Japanese bomber from Touraine to Taihoku on the morning of 18th August, 1945..... The plane crashed to the ground, broke into two parts and caught fire. In this fire the pilot and Genl. Shidei died instantaneously and of the other men on board, the co-pilot Ayoagi died later and Bose also succumbed to his burn injuries during the course of the following night. His body was cremated and ashes were taken to Tokyo.” (Page 49 –</p>	<p>“As regards the journey of the ashes collected by Habibur Rahman from the crematorium at Taipei to the Renkoji Temple in Japan the evidence is consistent and, therefore, needs no discussion. Since the ashes collected were of Ichiro Okura – not of Netaji – the only inference that can be drawn is that the ashes lying in that temple cannot be of Netaji”. (Page 107 – para 4.12.19)</p>

		ashes did not belong to Netaji, are either based on insubstantial grounds, or on wrong facts and therefore have to be discarded." (Page 53 – para - 10).	para 4.129)	
9.	Dr. Yoshimi who treated Netaji in the Taihoku military hospital	<p>"Dr. Yoshimi has stated that at about 7 or 7-30 P.M. he was informed by Dr. Tsuruta that Netaji's condition had deteriorated and his pulse was very weak. Shortly after 8P.M. he breathed his last. He made out a medical certificate of death in respect of the deceased, writing him name in Japanese (Kata Kana) as "Chandra Bose" and giving the cause of death as "burns of third degree". (Page 30 – para 5).</p> <p>"..... Dr. Yoshimi says that tears were rolling down Col. Rehman's eyes. The nurses were crying loudly. Everybody present in the room was crying. In fact, describing this poignant scene before the Committee, Dr. Yoshimi himself broke down and sobbed audibly. " (Page 39 – para 1).</p>	<p>"..... Dr. Yoshimi was present when Bose died, later the same night, and he prepared a death certificate which he signed." (Page 26 – Para 4.37)</p> <p>"..... But the important point is that there was no reason whatsoever for Dr. Yoshimi to make up wholly false story and depose to it on oath. Dr. Yoshimi struck me as an eminently respectable individual whose status in life and whose professional pride would prevent him from committing perjury in a case with which he was in no way personally or nationally concerned." (Page 35 – para 4.64)</p> <p>".... The Doctor, too, appeared to be a most convincing witness of truth."</p>	<p>"Discussion on this point will not, however be complete unless the part played by Dr. Yoshimi on this issue is commented upon. The absence of any record relating to Netaji's death and cremation (in respect of which he claimed to have played a pivotal role) clearly demonstrates that he was not telling the truth. Dr. Yoshimi's failure to give any reason, much less a satisfactory one, for belated preparation of the copy, his statement before the Committee that he did not know what had happened to the hospital records after his departure therefrom on January 21, 1946 and the report of the inquiry officer of the Formosan Government to the effect that the hospital</p>

			(Page 49 – Para 4.128)	records were not available (as noticed earlier) clearly indicate that the above document cannot but be a manufacture one.” (Page 74-75 – para 4.8)
10.	Inquiry conducted by Harin Shah	<p>“In August 1946, i.e. the year after the events, Mr. Harin Shah, an Indian journalist, visited Formosa at the invitation of the Chiang Kai-shek Government. There he took up enquiry on his own about Netaji. Mr. Shah came across a number of Formosans who had something to say as to what happened to Netaji at Taihoku. He met some medical students, who had heard that Netaji had been severely injured as a result of the air crash, and that a Japanese medical student donated blood for transfusion. He also examined at length a Formosan nurse, Sister Tsan Pi Sha, who said that she was in attendance on Netaji at the Nanmon Military Hospital. She gave correct description of Netaji and Col. Habibur Rehman. In the end she said that Netaji had</p>	<p>“In this connection I may refer to Harin Shah, a newspaper reporter, who paid a visit to Taipei at the end of August 1946. He made an investigation into the story of the air crash and Bose’s death. He claimed to have obtained the two above mentioned documents from the municipal records at Taipei Harin Shah, in 1956, published a book named “Verdict from Formosa GALLANT END OF NETAJI Subhas Chandra Bose”. The theme of this book is that the story of the crash of Bose’s death had been proved beyond all doubt. Harin Shah expressed the view that though the particulars given in the twodocuments do not, in terms, specify Bose, the</p>	<p>“..... an inquiry towards that end was undertaken for the first time by Shri Harin Shah, the Editor of “Indian Worker” Towards the end of August, 1946 he paid a visit to Taipei and made an inquiry into the story of the air crash ad of Netaji’s death... he called on the Director of the Bureau at his (the Director’s) office in Taipei and asked for records with regard to the death ad cremation of Netaji... After search those two clerks produced the following documents –</p> <p>i) the doctor’s report on the deat of Netaji;</p> <p>ii) the police officer’s report; and</p> <p>iii) the certificate issued by the Bureau permitting cremation. The doctor’s report reads as follows:</p> <p>From the Army Hospital</p>

	<p>died at the hospital at 11 at night He was satisfied on the strength of his enquiries that Netaji had died at Taihoku as a result of the air accident.” (Page 34 – para 9).</p>	<p>documents, in fact, relate to him and therefore prove his death and subsequent cremation. He attributed the discrepancy to a desire on the part of the Japanese to keep the matter of Bose’s death a complete secret.” (Page 41 – para 4.95) “The death certificate describes the deceased as Okara Ichiro, male, born on April 9, 1901. The cause of death is mentioned as heart-failure..... (Page 41 – para 4.96). “It is clear that neither the name nor the date of birth of the deceased mentioned in these two documents is truly descriptive of Bose...” (Page 42 – para 4.97) “The argument is in the nature of non-sequitur, for what does not relate to an event, cannot be used to disprove it. It is tantamount to raising a phantom and then destroying it. I do not, therefore, accept the contention that these</p>	<p>To the Bureau of Health and Hygiene Date of the Report: 21st August, 1945. Certificate of the Death: Name of the: Okara Ichiro person Sex : Male Birth: Born in the Meiti 22nd Year April 9. Reason of : By sickness Death Nature of sickness: Heart-Failure Time of death: 19th August 4 p.m. The name of: Chhuluta Doctor and Toyoji The seal Chentze In his book titled “Gallant end of Netaji (Ext. 295) Shri Shah reproduced copies of the doctor’s report wrote in his book and also testified before the Committee that even though the particulars given in those documents related to Ichura Okara or Okara Ichiro, those documents</p>
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			documents relate to Bose and that they disprove the factum of his death.” (Page 43 – para 4.99 end)	in fact related to Netaji’s death and cremation.” (Page 60-62 – paras 4.6.11 – 4.6.13)
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Sl. No.	Point/circumstance/issue	Comments of JMCI	Comments of Shah Nawaz Committee	Comments of Khosla Commission
1.	Government of India's request to Japan Govt. for doctor's report and cremation permit	"it also appears that while negotiating with the British Government for obtaining the above record the Government of India had also asked the Government of Japan to obtain the selfsame documents, viz., Doctor's report an cremation permit regarding Netaji's death through its Embassy in Tokyo and pursuant thereto the Ministry of Foreign Affairs of the Government of Japan forwarded a copy of the an entry under serial No. 2641 of the cremation register maintained by the Bureau in the name of one Ichiro Okura with a forwarding letter addressed to the First Secretary, Embassy of India by the Ministry of Foreign Affairs, Government of Japan on July 24, 1956." (Page 64 – para 4.6.16)	Nothing about this has been mentioned	Nothing about this has been mentioned
2.	Translation of the entries in the Cremation Register of Taipei Crematorium	"...the Chairman of the Commission requested the Government of Taiwan to send to this Commission certain records including all entries in the cremation register of the old crematorium of Taipei city during the period from August 18 to August 24, 1945..... Ministry of Foreign Affairs of Taiwan sent		

	<p>copies of some of the documents asked for including those entries Immediately on receipt thereof the Commission passed an order on March 29, 2005 directing its office to requisition the services of a competent Anglo-Japanese translator Shri Sandeep Kumar Sett, an Anglo- Japanese translator referred to by the Japanese Consulate in Kolkata, were requisitioned to do the following –</p> <p>i) To look into the documents appearing in item No. (iii) of the memorandum dated January 31, 2005 (vide Annexure – D/1) as sent by the Government of Taiwan and confirm whether they contain entries of cremations during the period from 18th to 24th August, 1945;</p> <p>ii) If so, to let this Commission know whether name of Netaji Subhas Chandra Bose or ‘Chandra Bose’ (as Netaji was so called by the Japanese), Pilot Takizawa, Co-pilot Aoyagi and General Shidei appear in any of these entries;</p> <p>iii) To let the Commission know the name of the person to whom the entries at Serial No. 2641 in the aforesaid documents relate and, if those entries relate to a person named Ichiro Okura, to translate the entire entries against</p>		
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		<p>the said serial number into English; and</p> <p>iv) To let the Commission know, if possible, the name of the doctor who issued the report as appearing at page 90 of Shri Harin Shah's book, 'Gallant end of Netaji'.</p> <p>..... Shri Sett submitted his report on April 5, 2005 wherein he has stated, inter alia, that there is no entry in the name of Netaji Subhas Chandra Bose/'Chandra Bose', Pilot Takizawa, Co-pilot Aoyagi and General Shidei in the documents of cremation during the period from August 17 to August 27, 1945....." (page 72-73 – para 4.7)</p>		
3.	Sitting position of Netaji and splashing of gasoline over his body	<p>"..... Viewed in that context the explanation sought to be given by the surviving occupants of the ill-fated plane that as Netaji was sitting by the side of the petrol tank, gasoline flashed all over his body resulting in his sustaining third degree burns cannot also be believed, for Netaji Could not have been in his original position on the floor immediately following the plane's nosediving." (Page 89 – para 4.12.6 end)</p>	<p>"Col. Habibur Rehman has given a detailed description of the seating arrangements, which is reproduced below, and has illustrated it by sketch:</p> <p>"..... The seat of</p>	Nothing about this has been mentioned

			<p>the Pilot was behind them on the port side, and opposite to him on the star-board side was sitting Lt. Gen. Shidei. Immediately behind the Pilot was sitting Netaji and nobody opposite to him, as the space was restricted by the petrol tanks</p> <p>The Committee has examined four of Col. Habibur Rehman's fellow-passengers, namely, Lt. Col. Nonogaki, Major Kono, Major Takahashi and</p>	
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			Captain Arai. Regarding seating arrangements, the versions of the different witnesses tally to a great extent....." (Page 15 – para 6)	
4.	Habibur Rahman took an active part in the escape plan	"That Habibur Rahman (the Indian referred to by Tan Ti-Ti) was also a party to the escape plan is evidenced by the prominent role he played in ensuring that the Bureau people could be misled in believing that the body which was going to be cremated was that of Netaji. It is pertinent to note here that even though it was the body of Ichiro Okura which was to be cremated on August 22, 1945 Habibur Rahman, who could not have any interest in that cremation, visited the crematorium along with army officer Mr. Yoshimi not only to attend the cremation on that date but also to collect the ashes on the following day....."	No such observation has been made	No such observation has been made
5.	Point of escape/	"..... Though no firm opinion can be	No such	No such

	disappearance	expressed about Netaji's exit point it can legitimately be inferred, having regard to the established fact that Habibur Rahman who accompanied him from Saigon was next found present in Taipei cooking up a story (along with others) of his death there, that Netaji disappeared therefrom (Taipei)...." (Page 107 –para 4.12.18)	observation has been made	observation has been made
6.	DNA test of the ashes	"..... So far as the DNA testing of the ashes is concerned, the reports received by the Commission from different experts at home and abroad practically projected a bleak prospect. In spite thereof, the Commission , considering the faint possibility of the DNA testing as indicated by CCMB (Centre for Cellular and Molecular Biology, Hyderabad), made persistent efforts to persuade the Temple authorities through MEA to allow physical inspect and collection of potentially less charred bone pieces from the casket lying in their custody. While on this point it may be mentioned, even at the risk of repetition, that if the recommendations of Terry Melton referred to earlier were to be acted upon, such inspection was an absolute necessity. But on account of the Temple authorities' reticence as mentioned earlier the Commission could	No such observation has been made	No such observation has been made

		not proceed further in the matter.” (Page 31 – para 2.8.11)		
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